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THE RECOURSE TO WAR:
AN APPRAISAL OF
THE "WEINBERGER DOCTRINE"

Alan Ned Sabrosky
Robert L. Sloane

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
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Edited by
Alan Ned Sabrosky
and Robert L. Sloane

1988

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PREFACE

This book had its origins in a conversation between the editors about the implications of the Weinberger Doctrine for the future use of military force by the United States. It was understood that this doctrine reflected a number of deeply-felt concerns within the defense establishment in general, and the armed services in particular. It was also acknowledged that the Weinberger Doctrine, if taken literally, would have explicit political and military consequences--something many commentators had already noted. And it became apparent in short order that the Weinberger Doctrine had moral and legal dimensions as well, attributes whose impact on the U.S. propensity for, and capacity to conduct, military interventions abroad was less clearly understood.

Former Secretary Caspar Weinberger's departure from office has in no way attenuated the significance of this opening declaration of the preconditions for the use of force by the United States. The object of this volume is to address these issues in order to improve our collective understanding of these facets of the Weinberger Doctrine, and its potential implications for U.S. policy in the years ahead. All of the contributors are, or were, associated with the U.S. Army War College in one capacity or another, either serving as members of its faculty and staff or (in the case of James Turner Johnson) lecturing frequently at that institution. The views expressed in their respective contributions, of course, are those of the individual authors, and do not represent the official policy or position of the U.S. Army War College, the U.S. Government, or any of its agencies or departments.

Finally, our thanks go out to those who contributed chapters to this volume for their skill and attention to detail.

We are grateful to the U.S. Army War College for providing a congenial professional environment in which issues of national security can be evaluated. A special debt of gratitude is owed to Mrs. Janet C. Smith, who patiently and diligently typed the many drafts of this manuscript.

Alan Ned Sabrosky
Robert L. Sloane

CHAPTER 1

INTRODUCTION

Robert L. Sloane

In recent years, a debate between the Secretaries of State and Defense focused on the moral justification necessary for the critical application of U.S. military force.¹ Historically, those charged with the responsibility for maintaining the diplomatic affairs of state have been most reluctant to resort to the use of such force. Only after all other recourses have been exhausted would they agree to consider the commitment of military forces. On the other hand, those more directly charged with the defense of the country traditionally have been far more willing to exercise military power in the discharge of their responsibilities. Within the recent quest for viable criteria upon which to base such a decision there was, however, an unusual reversal. The Secretary of State appeared to espouse the use of force as an arm of diplomacy more readily than did the former Secretary of Defense who, in the aftermath of Vietnam, adhered to more limiting criteria for determining such a recourse.²

Whether or not this reversal established a precedent, or was a singular aberration, remains to be seen. For centuries men have sought to establish rational criteria upon which they could judge the morality of resorting to force to settle disputes. Within the West this effort has produced what is referred to as the "just war" tradition. Developed through extensive critical debate, with constant

refinement, these criteria concurrently have broad contemporary acceptance. The purpose of this book is therefore to review the development of criteria which have been used in the West for deciding upon the moral recourse to war. In particular, the evolving doctrine for the critical application of U.S. military force will be examined in detail as it relates to just war tradition and impacts upon current and future security considerations of the United States. This chapter introduces the book and previews the material presented in detail within subsequent chapters.

In Chapter 2, David T. Twining evaluates "The Weinberger Doctrine and the Use of Force in the Contemporary Era." According to Twining, the six criteria for the use of military force enunciated by Mr. Weinberger in November 1984 represented a maturation and sophistication of our strategic thought. The criteria adapted and clarified defense policies of a different time and a slower world to the exigencies of the present and the challenges of the future. The effective sustained use of force by a democratic state has always been problematical, because the popular will to support and to sustain this commitment is necessarily uncertain and the American people in particular properly demand assurances that military action is appropriate and necessary. In this contemporary era of political and social disarray some call peace, acts of death and destruction have caused many to become inured to the routine recourse to violence at all but the highest levels of the conflict spectrum. For our political adversaries, force has become a primary instrument by which authoritarian and totalitarian states seek to sustain and to project the ruling oligarchy's concept of political reality. If democratic states are to defend and to advance the cause of freedom, social progress and human rights in all corners of the globe, the fundamental connection between the American people, their armed forces, and issues of national security requires an explicit acknowledgement of the circumstances under which those forces will be used. Mr. Weinberger advanced our strategic judgment by clarifying this linkage for the

present and for the future, both for the American people and for those who would seek them ill.

In many respects, to be sure, one needs to place ongoing debates into their proper historical context. Charles E. Marthinsen assesses relevant political considerations in an historical context in Chapter 3, "The Historical Significance of the Weinberger Doctrine." In Marthinsen's view, whether and when the United States should commit its Armed Forces to action are questions that Americans can answer only in a political context--but because of changing circumstances, the answer can change over time. Debates about employing military power have divided American society periodically throughout the nation's history. These debates will continue, just as we will continue to resort to arms when attacked or when our leaders convince us that important national interests are at stake. Thus, both Secretary Shultz and former Secretary Weinberger were right--at one time or another. Some details which are included are a recapitulation of the historical political debates that accompanied the U.S. involvement in conflicts from the American Revolution to the incident in the Gulf of Sidra; the growing role of the media in these debates; and the unique political problems posed in combatting terrorism.

William G. Eckhardt continues the development of Marthinsen's line of reasoning by taking it into the legal sphere. In Chapter 4, "'We the People' Go to War: The Legal Significance of the Weinberger Doctrine," Eckhardt argues that our dedication to the Constitution means that we are a people governed by the Rule of Law. "Law" is more than technical compliance with rules; it is a sense of justice and fairness. Our citizens express this sense of right and wrong at the ballot box. Such is our democracy. When the United States contemplates resorting to war, we do not abandon our dedication to the law. However, we as a people must think internationally as well as domestically. We must think "systematically" using history and practical moral reasoning. We must be guided in those matters which, through accepted custom or by codification in

appropriately ratified treaties, have become international norms. When we act outside an acceptable international framework, we alienate our own citizens and necessary world public opinion and place in jeopardy the cause for which we fight.

Although thinking internationally, Eckhardt suggests that the most easily understood analogy is domestic. When there is a violation of our domestic law and when credible evidence links a perpetrator to the crime, we turn to trained policemen to keep order. Appropriate authorities must seek permission to apprehend and in doing so they must articulate with specificity what they desire to accomplish. The resulting warrant is based on evolving concepts of "probable cause." The warrant is executed relying on the professionalism of the police guided by certain rules for employing violence. The end result is a peaceful community with as little collateral damage as is professionally possible.

Likewise, when a country breaches international law by aggression which violates the sovereign rights of another state, the injured state is justified--as a last resort--in using force for self-protection. In seeking permission "to kill people and to break things," it will use the internationally recognized standard of "self-defense." It will attempt to act collectively within the United Nations or within a regional framework, although on rare occasions it may act unilaterally. The aims of the aggrieved state will be stated domestically with specificity. Execution of this "political warrant to wage war" will be by professionals who are guided by internationally recognized rules. The goal of using violence is preservation of the state and a return to a peaceful international order.

In making this analogy, the following concepts are discussed: the use of force as a last resort, the "outlawing" internationally in this century of the use of force except for self-defense, the growing necessity to act collectively, and the necessity of discrimination and proportionality in the waging of war. Additionally, what "war" is legally will be

discussed along with certain legal effects of a state of belligerency. The overriding theme will be that "law"--primarily international law--provides the framework or "system" within which we make our legal, moral, and political judgments about war.

Determining when the use of force is appropriate, of course, goes beyond matters of history, politics, and law. The next chapters address a set of considerations that bear on this issue. In Chapter 5, "Just War Thinking and Its Contemporary Application: The Moral Significance of the Weinberger Doctrine," James Turner Johnson explores just war theory as a focus for a moral analysis of the Weinberger Doctrine. Just war theory represents the major moral tradition in Western culture regarding the justification of force in the service of statecraft. It seeks to answer two questions: When is it justifiable for a nation to resort to military force in the service of its ends, and what items should be observed even when the use of force itself is justified? The burden of the argument of the chapter is to show the linkage between this way of thinking about the use of force and the Weinberger Doctrine and to argue for the latter as an exercise in statecraft consistent with just war principles. The chapter proceeds through four sections. These include Section I, the introduction, which establishes the major issues to be treated in the chapter and links just war reasoning to the Weinberger Doctrine as a contemporary exercise in statecraft; Section II, which is an examination of the sources and development of just war tradition: its cultural roots in religious, legal, and military sources and its major historical expression; Section III, a comparison between the classic (late medieval) expression of just war criteria and the expression of these criteria in international law; and Section IV, an examination of the Weinberger Doctrine itself as one contemporary example of just war thinking.

Ultimately, however, the Weinberger Doctrine and its implications for the future must be appraised in military terms. Samuel J. Newland and Douglas V. Johnson II proceed to do just that in Chapter 6, "The Military and

Operational Significance of the Weinberger Doctrine." As Newland and Johnson see things, it is difficult, if not impossible, to totally separate the political and military parts of the Weinberger Doctrine. On the military side, however, the Weinberger Doctrine tended to create as many problems as it hoped to solve. It indicated a lack of clarity in national objectives and in defining national interest but failed to recognize a key problem, particularly for the military planner, in doctrinal interpretation or implementation. Perhaps most alarming, from a military point of view, the six tests enunciated by the former Secretary seemed to institutionalize the traditional reticence of the military to utilize military force to go to war. Their focus is on the six tests within the Weinberger Doctrine as applied across the spectrum of conflict, with emphasis on the area of military command and control and force structure as interpreted through doctrine.

For policy analysts, perhaps the most interesting question pertains to the impact of the Weinberger Doctrine on the propensity of the United States to intervene successfully in the coming years, if circumstances dictate such an action. Alan Ned Sabrosky addresses this question in Chapter 7, "Applying Military Force: The Future Significance of the Weinberger Doctrine." Sabrosky concludes that U.S. interests clearly dictate that this country maintain a prudent capacity to intervene successfully when threats to those interests emerge. The Weinberger Doctrine was but the most recent attempt to provide a plausible architecture within which the use of military force can be considered. This chapter summarizes the principal tenets of that doctrine and of the analysis in the preceding chapters. It then appraises the principal areas of convergence and divergence in those analyses in order to derive a "net assessment" of the prospects for successful "recourse to war" if circumstances require such action. The probability of using criteria such as those in the Weinberger Doctrine for the future determination of whether or not the United States will commit forces to conflict is discussed. Emphasis is placed on the use of

force by this country in the especially demanding limited wars likely to be confronted in the years ahead.

There is, in sum, much to be learned from the Weinberger Doctrine. It was a multifaceted declaration with more aspects than would appear to be the case on the surface. Understanding those aspects, and their implications for the use of force by the United States in the Third World, may help this country to intervene less often but more successfully than in the past. It is hoped that the analyses in this volume will contribute to that understanding.

NOTES

1. See, for example, Tod Lindberg, "The Fight Over Whether to Fight," *Insight* (February 3, 1986).

2. The basic doctrine, essentially unchanged since its enunciation in November 1984, appears in Department of Defense, *Report of the Secretary of Defense to the Congress for Fiscal Year 1987* (Washington, DC: U.S. Government Printing Office, February 5, 1986).

CHAPTER 2

THE WEINBERGER DOCTRINE AND THE USE OF FORCE IN THE CONTEMPORARY ERA

David T. Twining

INTRODUCTION

United States defense policy is now at a crossroads. The legacy of Vietnam is fast fading amidst a new confidence and, some may say, a new readiness to use military force in support of democratic principles. While the precise nature of this trend is still evolving, its direction is clear: the use of armed force by a democratic state is increasingly necessary to defend wide-ranging national interests.

The authoritarian and totalitarian states which have taken advantage of the uncertain will and disparate institutions that comprise the cumbersome machinery of a democracy have themselves been the catalyst for this change. With apparent readiness to use force at nearly all levels of the conflict spectrum, these states have revealed inherent systemic weaknesses by resorting to the only means they can readily muster. The negativism implied by this thrust towards terrorism, technology theft, political subversion, military aid and guerrilla warfare rather than education, health and developmental programs serving genuine human needs reflects a divergence in fundamental values; this divergence has brought us to the crossroads at which we now stand.

Recent events in Lebanon, Afghanistan, the Philippines, Grenada, Ethiopia, and Haiti have shown the stirrings of peoples dissatisfied with a future planned by others to satisfy state needs. Against this backdrop of a new democratic revolution rests the perennial dilemma of the role and utility of military force and the extent to which oppressed peoples and fledgling governments should be assisted. The U.S. experience in Vietnam illustrated the limitations of military power, where the lack of unity between the American people, their army and government rendered ineffective a military effort in a political war for which the final objective was uncertain and the means for its attainment unclear.

On November 28, 1984, former Secretary of Defense Caspar W. Weinberger delivered a historic speech which advanced U.S. strategic thought regarding the use of force by a democratic state. Given one year after the Grenada invasion and nearly ten years following the fall of Saigon, this speech bridged the chasm between a period of uncertainty and one of renewed resolve and strength. Today, when one of every four countries is at war with other states or hostile movements,¹ Mr. Weinberger's remarks are more germane than ever, even after his departure from office.

In this era of political and social disarray some call peace, acts of death and destruction have caused many to become inured to the routine recourse to violence. If democratic states are to defend and promote freedom, social progress and human rights, the fundamental Clausewitzian connection between the American people, their armed forces and government concerning issues of national security require an explicit acknowledgment of the circumstances under which those forces will be used.

THE SIX CRITERIA FOR THE USE OF MILITARY FORCE

I. *The United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies.*² According to Mr. Weinberger, national interests--ours or those of our allies--would determine if the application of force is appropriate for securing those interests. U.S. national will and troops will not be substituted for that of our allies nor will the United States become the world's policeman. Allies will be supported with economic and military aid to help in their self-defense, but national interest, ours or our allies, will be the measure by which this decision is made. Nor will the United States announce in advance, as in Korea in 1950, that particular regions are beyond our strategic perimeter.

II. *If we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all.* If a vital national interest requires committing U.S. troops to combat, the force so committed must be of sufficient size and strength to assure victory. Military force, however, will not be incrementally drawn into combat, a strategy "which almost always means the use of insufficient force." Instead, the United States will act deliberately and resolutely to attain its objectives; there can be no question of our resolve to win.

III. *If we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have, and send, the forces needed to do just that.* Because the Clausewitzian political aim of war is the quintessential goal and war is its means, political and military objectives contributing to that end may never be viewed in isolation of one another.³ Well-defined objectives

provide the basis for a consistent, effective strategy for their attainment. When that strategy deems combat itself to be necessary, adequate forces for that purpose shall be sent, not forces configured for peacekeeping alone.

IV. The relationship between our objectives and the forces we have committed--their size, composition and disposition--must be continually reassessed and adjusted if necessary. This test acknowledges that the conditions and objectives of a conflict inevitably change. This change dictates that combat requirements be adjusted accordingly. National leaders must conduct a continuous assessment to determine whether the conflict is indeed in the national interest and if military force is the appropriate means for its resolution. If the assessment concludes this is the case, victory must then be sought. If not, as Mr. Weinberger stated, "we should not be in combat."

V. Before the United States commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. No war--whether the tragedy of Vietnam or the quick victory in Grenada--can receive a guarantee of public support in advance of military action. What is desired, however, is the reasonable expectation that the American people and their elected representatives will understand the necessity for action when the case for it has been clearly made. This requires effective, decisive action by a chief executive who acts in what is believed to be the national interest. This also requires a frank dialogue between the executive and legislative branches over the nature of the threat prompting military intervention. Future challenges will be mostly gray, precisely the most difficult national security problems with which democracies must deal. This uncertainty does not preclude a decisive response; it only makes it more difficult.

VI. *The commitment of U.S. forces to combat should be a last resort.* The resort to military force by a democracy, particularly its American variant, is not just a deliberate, rational decision, but a moral one as well. This stems not from the purpose for which a war is conducted, but from its nature. This acknowledges not what armies "are," but what they "do": the "infliction of human suffering through violence," of "combat *corps a corps*."⁴ Additionally, Western nations are particularly sensitive to casualties. It is this human cost and the sense of individual worth it represents--more than any other factor--which makes the commitment of U.S. forces to combat truly a last resort.

THE CONTEMPORARY STRATEGIC SETTING

These criteria represented the culmination of a long and painful odyssey which began long before the Reagan Administration entered office. Their origin preceded Vietnam and even Korea; rather, they reflected the lingering uneasiness with which Americans viewed the results of the last great war--World War II. This global conflict, much like World War I before it, was waged to end the possibility of another war, to preserve individual liberties and future generations from the great waste and sacrifice that has characterized man's violent evolution through the ages.

The military victory of World War II failed to achieve the ultimate political purpose for which it was waged--a world of self-governing states living at peace with one another. The scourge of Nazi fascism and Japanese militarism had been soundly defeated at great cost, but the free peoples of Eastern Europe and the Baltic States were subjugated and the Western allies' wartime marriage of convenience with the Soviet Union ended in early divorce. In viewing the mixed results victory had brought the United States in World War II, former Secretary of Defense James Forrestal declared, "The great mistakes were made during the war because of American failure to realize that military and political action had to go hand in hand."⁵

The Korean War was the first of the limited wars, where restricted political objectives dictated a less than all-out military effort. If World War II represented the last time a declaration of war was deemed necessary, successive hostilities, despite their scope and duration, have been viewed as different, where something less than complete national mobilization was appropriate.⁶ Vietnam also represented a war where a declaration of war was not sought. The national will was not mobilized to support an army and its commander in chief, both of whom eventually faltered and failed. Circumstances leading to the withdrawal of U.S. forces in 1973 and Vietnam's final collapse in April 1975 were as profound a shock to the national psyche as any the republic had experienced since the Civil War.

IMPACT OF VIETNAM AND RECENT EVENTS

It is clear that the views of former Secretary Weinberger were strongly influenced by the Vietnam War, where the United States won every major battle, but lost the larger war. In this conflict, Ho Chi Minh sought to consolidate all of Indochina--Laos, Vietnam, and Cambodia--under Hanoi's leadership. The United States gradually limited its efforts, and narrowed its strategic horizons with such tragic results, to pursuing the war largely within the boundaries of South Vietnam, despite the likelihood that "we were the only people in Southeast Asia who really believed those borders existed."⁷

While the August 1964 Tonkin Gulf Resolution spoke of "assisting the peoples of Southeast Asia to protect their freedom," successive policy statements restricted the U.S. strategic arena, and hence the political objective of the war, to the confines of South Vietnam. As a result, the United States fought a limited war while Hanoi pursued total war in which combat operations in South Vietnam were but a part. U.S. prestige and pride increasingly replaced limited political objectives as the cause for which the war was

fought. In the end, the only objective was to leave, despite North Vietnamese troops still in place in the South.

In many respects, the conduct of the Vietnam War represented the antithesis of the Weinberger Doctrine. From its beginning, there was no agreement on what was at stake and which U.S. vital interests, if any, were involved. Limited military means were gradually introduced because victory in the classic sense was not sought and the war's relevance to the national interest was clouded at best. The U.S. domestic political environment was to a large extent ignored, and the failure of existing U.S. strategic doctrine led to a commitment the American people were not prepared to fully support.

Because military means were restricted in pursuit of limited objectives within an artificial operational zone, the United States in Vietnam fought a war of attrition which corresponded to the enemy's strategic doctrine. This doctrine, first published in 1947 and reissued by Hanoi in 1962, sought a protracted conflict. This strategy worked against the French and, with time, it was effective against the Americans. The negotiated settlement which saw the United States withdraw from Vietnam by March 1973 was the precursor to North Vietnam's conventional offensive which brought about the fall of the Saigon regime in April 1975. To communist leaders, the message was clear: the American people lacked the will to persevere in a protracted war of attrition far from home, where basic U.S. interests--most likely survival interests--were not at stake.⁸

With U.S. domestic politics preoccupied by the Watergate saga and U.S. foreign policy paralyzed by the Vietnam debacle, a series of low-cost, low-risk adventures ensued: independence of the former Portuguese colonies of Mozambique and Angola in 1975 led to the establishment of pro-Marxist regimes with direct Soviet and Cuban assistance. Ethiopia in 1977 turned toward Moscow; three brigades of Cuban troops under the control of Army General Vasiliy F. Grov, the first deputy commander in chief of Soviet ground forces, and three

other Soviet generals supported Mengistu Haile-Mariam in conflicts in the Ogaden and Eritrea. Soviet ties with the pro-Marxist regime in South Yemen were capped in October 1979 with the conclusion of a 20-year Treaty of Friendship and Cooperation.⁹

These events, and the January 1979 Iranian collapse with its tragic 15-month hostage crisis, led to the realization that if the United States did not play a more active role in world affairs it would be overwhelmed by them. The final blow, and the death-knell to detente, was the December 25, 1979 Soviet invasion of Afghanistan. During this period, the USSR had been deploying mobile SS-20 intermediate-range nuclear missiles for two years. Soviet forces were continuing their qualitative and quantitative improvements. The murder in Kabul of President Hafizullah Amin by Soviet troops represented the final loss of innocence in an age gone awry.

By the time of U.S. national elections in November 1980, there was a pervasive public conviction that the malaise and paralysis which had typified American foreign policy since the Vietnam War were no longer acceptable. This perception, combined with the continued growth of Soviet, Soviet Bloc, and Soviet-proxy military power, required a more assertive foreign policy and the military strength to support this renewed sense of national purpose.

Widespread concern for the state of U.S. defenses and America's role in world affairs brought a new administration to power pledged to restore those defenses. Building upon efforts begun toward the end of the Carter Administration, President Reagan sought to reverse a 20 percent decline in American power during a period when Soviet military strength had increased by 50 percent. According to Mr. Weinberger, peace would be best served by convincing the Soviet leadership that "no significant exploitable military advantage" could be achieved in view of this new U.S. determination.¹⁰

This change represented a broad bipartisan and popular consensus that deterrence was preferred to a strategy of inducement or convergence in dealing with the Soviet Union. While these strategies have been in effect simultaneously to some extent, the United States has most consistently applied the strategy of deterrence since the late 1940s. According to Dimitri Simes, preponderant Western strength ended the Berlin blockade in 1948; it also led to the withdrawal of Soviet missiles from Cuba in 1962, and stopped Moscow's threatened intervention during the 1973 Arab-Israeli War. The political and economic benefits of detente did not induce the Soviet leadership to abandon its adventurist policies in the Third World or slow its military growth. Efforts toward convergence during both detente and the so-called Cold War met a hostile reception. In the end, strong military capabilities and other elements of national power effectively deterred Soviet actions antithetical to Western interests. Despite the relative success of deterrence, however, Western democracies have been unable to "act intelligently, purposefully, consistently, and in concert" in applying this strategy."

During the early stages of restoring American deterrent forces and the sense of strategic ambivalence which accompanied that buildup, President Reagan provided clear direction for the debate over the use of military force. Because Grenada was the first English-speaking country to fall to communist domination, it was appropriate that it become the first communist regime in power to fall to Western democratic forces. The October 1983 invasion revealed a small island nation where the 163-strong New Jewel Movement dominated a country of 88,000 people with the assistance of 800 Cubans, 49 Soviets, 17 Libyans, 15 North Koreans, 10 East Germans, and 3 Bulgarians. Among the 35,000 pounds of documents seized by American and Organization of Eastern Caribbean States forces were five secret military agreements detailing the extent and nature of Soviet, Cuban, and North Korean support. These documents disclosed unequivocally the Socialist division of labor by which Grenada was subverted, manipulated, and ruled. They also revealed the

role of Nicaragua, Cuba, Bulgaria, and others in assisting Moscow's penetration of the Caribbean.¹²

On October 23, 1983, the very day the five-member Organization of Eastern Caribbean States formally requested Washington's assistance to stem the deteriorating situation on Grenada, a truck bomb destroyed the U.S. Marine headquarters in Beirut. This incident followed the April bombing of the U.S. Embassy there which killed 17 Americans. Now, as Washington was moving forward with the October 25th invasion of Grenada which led to this direct evidence of Soviet, Soviet Bloc, and Cuban involvement, the United States mourned the loss of 241 of its servicemen in Beirut.¹³

These incidents, the decisive Presidential action to restore democracy in Grenada and the large loss of American lives due to terrorism, represent two predominant themes which have fueled the debate over the use of military force. These themes--support for democratic institutions and elimination of terrorism--signalled the changing nature of the contemporary threat. The new reality of terrorism, political assassinations, and warfare by proxy increasingly placed the United States in an environment of danger in which regular military forces alone were inadequate. The significance and purpose of armed force was not "the central issue of American power since the end of World War II." How could the United States as a superpower apply military force to achieve limited objectives without either sacrificing those forces or triggering a nuclear conflagration?¹⁴

Because the use of force by a democracy is inevitably a moral issue and because purposefully cumbersome democratic states now coexist with totalitarian states unencumbered by considerations of public opinion and individual freedoms, Mr. Weinberger felt compelled to advance a new operational code. As President Reagan's principal architect of the largest U.S. military buildup in peacetime, Mr. Weinberger personally wrote the

November 28th speech, which was cleared by the National Security Council and approved by the President.¹⁵ It is a historic document; it adapts and clarifies defense policies of a different time and slower world to the exigencies of the present and challenges for the future. Its contribution to U.S. strategic thought is yet to be fully appreciated.

THE SHULTZ-WEINBERGER DEBATE

If the six criteria for the use of military force have their genesis in the failures during and following World War II to properly apply U.S. national will and the country's military power to problems of national security, other voices were calling for a similar reappraisal. If former Secretary of Defense Caspar Weinberger was advocating the cautious, calculated use of military force as a last resort, Secretary of State George P. Shultz was recommending prudent involvement. This difference of views, seen by some as disruptive and disharmonious, has served to guide and direct the evolution of U.S. national security policy to the present.

On August 20, 1984, Secretary of State Shultz told the Veterans of Foreign Wars in Chicago that the United States as the leader of the world's democracies had a special responsibility in the ongoing struggle of freedom and tyranny. According to Shultz, World War II taught that there were no final victories, while Vietnam taught that power and diplomacy are complementary. Calling for a consistent, long-term strategy, he said, "no diplomacy can succeed in an environment of fear or from a position of weakness . . . neither strength nor negotiations are ends in themselves. They must go hand in hand." Lamenting Nicaragua's slide toward militarism and totalitarianism, he requested a new readiness to use both diplomatic skill and military strength to defend our values and interests. "Americans," Shultz said, "must never be timid . . . We will use our power and our diplomacy in the service of peace and our ideals."¹⁶

Mr. Shultz further developed this theme in an October 25, 1984 address at New York's Park Avenue Synagogue, where terrorism was his principal focus. Attacking the atmosphere of fear and intimidation which terrorists were seeking to establish, he said that terrorism is particularly directed against democracies, whose systemic tolerance is antithetical to those who would otherwise impose their will, religious beliefs or ideology. Mr. Shultz called for a "broad national commitment" to respond to terrorism, but said it was not clear the United States was as prepared and organized to deal with this "gray area" activity as it was with a major full-scale attack. Low intensity conflict is a more likely security threat, he observed, given the current environment in which the "technology of security has been outstripped by the technology of murder."¹⁷

It was in this speech that Mr. Shultz called for a revision of U.S. policy with regard to the use of force against terrorist threats. According to Secretary Shultz, public consensus on this issue was now necessary if the United States was to effectively prevent, preempt, and retaliate for violent acts against innocent people. Because terrorism is a modern means of waging war, the U.S. military capability to combat it "will be used judiciously." To achieve the requisite unpredictability and surprise, the "moral and strategic necessity" for such action must be considered now, not after every terrorist attack. Sometimes, Mr. Shultz admitted, the lives of soldiers and innocent people may be lost. Our adversaries will place any preemptive or retaliatory act in the worst possible light, and the United States may have to act before all facts are known. According to the Secretary, "A great nation with global responsibilities cannot afford to be hamstrung by confusion and indecisiveness . . . democracies must show whether they believe in themselves."¹⁸

If these speeches reflected the Secretary of State's impatience and determination to act decisively against security challenges, especially terrorist acts, it was his December 9, 1984 speech at the convocation of Yeshiva University in New York which most clearly detailed the

nature of his "active strategy." This address was given 11 days following Mr. Weinberger's speech at the National Press Club and at a time when a hijacking was in progress in Teheran. Mr. Shultz's speech, more than any other, called for the need to combine strength and diplomacy if the United States was to fulfill its special responsibilities to the world. By calling attention to the American eagle in the Great Seal of the United States, Mr. Shultz noted that one talon clutched an olive branch, which the eagle is looking at, while the other held arrows.¹⁹

The great challenge facing the United States, and the major significance of his speech, was the use of American power within realistic limits to further the cause of freedom. Observing that public support cannot be guaranteed in advance, Mr. Shultz said the U.S. intervention in Grenada showed that "a president who has the courage to lead will *win* public support if he acts wisely and effectively. And Vietnam shows that public support can be frittered away if we do not act wisely and effectively." Despite the inherent reluctance of Americans to use force--which was clearly a last resort--the United States must "bear responsibility for the consequences of its inaction as well as for the consequences of its action." The tragedy of Hitler's triumph in Europe, he said, could have been prevented had the democracies had the courage and prudence to use power earlier in the developing crisis.²⁰

This appeal to "confront aggression" through the prudent, deliberate use of force represents the assertive theme which continues to characterize Mr. Shultz's approach to a diplomacy of strength. In an article in the Spring 1985 issue of *Foreign Affairs*, Mr. Shultz declared the United States is "not just an onlooker We are participants and we are engaged." In his view, the United States must respond to the so-called "gray area challenges"; to ignore them would be "absurd." As the strongest democratic state, good will and idealism alone are inadequate to protect peace and freedom. "We have to be strong, and, more than that, we have to be willing to use our strength." The complementary nature, again, of

power and diplomacy, applied wisely and prudently, was stressed. Diplomacy must be supported by strength, he said, and America must be physically and psychologically prepared for the intermediate challenges short of nuclear war which are surely ahead. Mr. Shultz confidently posited that "History is on freedom's side."²¹

From Mr. Weinberger's perspective, however, the question of the role and use of armed force by a democratic state within a turbulent, pluralistic world was absolutely central as never before. As an essential component of national power, military power has definite utility, particularly when a nation's existence is threatened. However, in the maintenance of peace and the pursuit of national interests toward that end, the decision to turn to military power may be the most critical and difficult decision of all.

In his *Annual Report to the Congress for Fiscal Year 1987*, Mr. Weinberger provided the most complete exposition of his six criteria since the November 1984 speech. First and foremost, he stated, the six tests were not meant to be applied in a mechanical or deductive manner. Each specific case required an assessment of whether military force is appropriate. While evidence in some cases may support its use, other evidence may not. Most situations, Mr. Weinberger asserted, will be in this latter category.²²

The former Secretary of Defense also said "American interests are nowhere etched in stone," but are situational, influenced by our best judgment and basic values. When those interests are of such significance that national power should be used for their protection or attainment, sufficient forces should be committed. The requirement to win implies clear objectives which are, in fact, achievable. A poorly defined objective or one unlimited in scope invites both escalation and possible disaster. Citing the case of Korea, Mr. Weinberger said the failure to clearly delimit the objective of restoring the South Korean border encouraged those who sought larger objectives, leading to eventual

Chinese intervention. In Vietnam, this failure resulted in frustration and widespread confusion which eventually led to the U.S. withdrawal.²³

Gradualism was also criticized as a tactical and strategic error which caused the American public to underestimate domestic political costs and assume an exaggerated sense of control. Referring to the use of troops organized for peacekeeping as in Lebanon, changing circumstances and the addition of further missions may prohibit success when there is no peace. Rather than watch U.S. troops become "expendable pawns on some grand diplomatic chessboard," the former Secretary of Defence said, they should be withdrawn.²⁴

Mr. Weinberger recognized the most controversial test involved the reasonable assurance of popular support before troops are committed. Acknowledging that "a government forced to wait for the people will be paralyzed in international politics," he asserted that the President and Congress share the responsibility to make the case for the use of force to the American people, whose informed consent will provide the guidance and the will for appropriate action. This process negates military force as a routine adjunct to diplomacy because it inevitably leads to domestic unrest. While decisionmaking is more complicated for governments based on popular consent, this process avoids the open-ended commitment and risk implied by the presence of U.S. troops in a foreign land where a vital U.S. interest is not at stake.²⁵

In his original speech and in his *Annual Report to the Congress for Fiscal Year 1987*, Mr. Weinberger confronted the utility of force for deterrence purposes. To order men to their deaths, he observed, requires that "such final sacrifices must be fully warranted." For a democratic state, this is the ultimate justification for a strong, effective deterrence, where sufficient military strength and a policy of resisting aggression helps maintain peace. This preventive approach implies a fundamentally different political utility of military power, where armed force is

prophylactic, one of a number of means of national power. For a democracy, the application of other instruments of power, he said, is even more necessary if the use of military force, as a last resort, is to be avoided.²⁶

According to Mr. Weinberger, the Vietnam War did not teach the United States to avoid all Third World involvement. To protect our interests, the "more intelligent use of our various instruments of power" will preclude the necessity of using force. Instead, covert action, economic and military assistance and other means are effective substitutes for this final act of a state to secure its interests, which--for a democracy--is inevitably a moral decision. What Mr. Weinberger terms "our central political values" and our conviction that the individual is the true benefactor of our political system justifies this position, despite arduous and lengthy challenges ahead.²⁷

Mr. Weinberger's remarks reflect a definite hesitancy and reluctance to use force; deterrence, in his view, is the essence of defense for a democracy. In a journal article published after his famous debate at the Oxford Union, Mr. Weinberger reiterated the inherent right of all nations and peoples to protect themselves from aggressive acts. Since deterrence in a democracy is uniquely built upon popular will, that capability in full measure can only be achieved by an understanding of the issues--including the need for a strong defense. The commitment to maintain deterrence is not easy, Mr. Weinberger admitted. While potential adversaries profess peace, the continual increase in offensive forces and worldwide instability have required that deterrent forces be strengthened and the military balance restored. Because the United States shares a special role as free world leader, the nation, he said, must continue defense efforts already underway.²⁸

The six tests would appear to preclude limited war, calling as they do for victory and castigating incrementalism as an escalatory option. In a July 1985 speech at Sacramento, California, the former Secretary of Defense noted the requirement to meet threats at all levels

of the conflict spectrum. All such commitments must have popular support, but this should not lead others to believe the United States is unable to restrain aggression. Turning again to the lessons of Korea and Vietnam, Mr. Weinberger condemned the concept of using the "mere presence of an inadequate force" to serve an "ill-defined goal." "The great crime of Vietnam," he said, "was that we sent thousands of our men into battle without intending to win. Never again should we commit a single American soldier to a battle we do not plan or need to win."²⁹

Mr. Weinberger then returned to the role of military force in support of diplomacy, another function some saw excluded from his six criteria. Military force does support this country's diplomatic efforts, but only if vital interests are at stake. "Military power is the hand inside the glove of crisis diplomacy." To defend those vital interests, he noted, the President as commander in chief must be able to move decisively. A long debate over the Grenada rescue operation would have paralyzed its chances of success. Raising again the spectre of the "gray area" of contemporary threat, Mr. Weinberger asserted that the nation's founding fathers expected Congress and the Executive Branch to work together and, in the end, both foreign and military policies must be approved by the citizens they serve.³⁰

One year after Mr. Shultz published an article in *Foreign Affairs* calling for the prudent use of military force, Mr. Weinberger returned to the subject of deterrence and the cautious, deliberate use of force in the same journal. He also repeated his six tests, describing military forces as having an "essential, but circumscribed and necessarily limited, role in the larger framework of national power." Mr. Weinberger acknowledged the debate in and out of government his six criteria initiated, but observed that theories of limited war developed in the 1950s and 1960s failed to consider the realities of domestic American politics. This discussion, identical in most respects to his FY 1987 *Annual Report to the Congress*, is noteworthy because it reiterates the "essential, but circumscribed and

necessarily limited, role" Mr. Weinberger reserved for military force.³¹

TOWARDS A NEW CONSENSUS

Following the October 1983 invasion of Grenada and bombing of the U.S. Marine headquarters in Beirut, the United States experienced a succession of terrorist incidents amidst mounting evidence of Libyan involvement. Washington was increasingly placed in a position of suffering loss and abuse from a state which respected neither the United States nor the principles upon which its government is based.

In April 1985, then National Security Adviser Robert McFarlane advocated the "proportional military response against bona fide military targets in a state which directs terrorist actions against us." To the highjacking of a TWA airliner in June 1985, an Italian cruise ship in October 1985, and an Egyptian airliner in November 1985 were added armed assaults on El Al facilities in Rome and Vienna in December 1985 and hostile acts in response to U.S. challenges to Colonel Qaddafi's "line of death." This was followed by the April 1986 bombing of a TWA airliner in flight and a bomb in a West Berlin night club crowded with U.S. servicemen. After this latter incident, President Reagan ordered air strikes against Libya, charging "Our evidence is direct; it is precise; it is irrefutable." In three years, the United States had moved from a position of nonresponse to the bombing of its Beirut Embassy to the conduct of multiple air strikes against a hostile state.³²

These incidents were all within the "gray area" from which, Mr. Weinberger said in his November 1984 speech, the principal threats to U.S. national security would come. While the Libyan action represented a watershed in U.S. resolve to attack terrorism, it also brought into sharp focus the question of the use of military force in the current era. Although some Washington officials were quick to point out that the air attacks on Libya did not represent a new

policy,³³ it was obvious that mounting U.S. frustration over terrorism was making the use of force in response much more likely.

Official U.S. impatience was signalled by Vice President Bush's Task Force on Combatting Terrorism in a report issued six weeks prior to the attacks on Libya. The Task Force recommended the "judicious employment of force" to punish and deter terrorist acts. Ambassador Robert B. Oakley, who was then responsible for coordinating counterterrorism policy with foreign governments, said the Administration believed international terrorism would increase and be a threat for at least the next ten years. Because the Task Force's report reflected a more aggressive stance toward terrorism, the April 15th raid on Libya was consistent with this policy position.³⁴

Soon after the attack on Libya, former Secretary of Defense Weinberger defended the air strikes as necessary: "to safeguard our own people, which is very ethical, we didn't see any other course." In a Boston speech, he said U.S. diplomatic and economic measures against Libya had proven insufficient. "We tried our best with alternatives," he added, but the United States could not remain inactive while U.S. airliners were being targeted by terrorists.³⁵ In later remarks, Mr. Weinberger indicated that the raid had been conducted as "a last resort" after unified allied action on economic sanctions had not been forthcoming. However, Secretary of State Shultz, who had called for a strong response to terrorist acts in the past, sounded a note of caution. "We will judge every situation as it goes We're not going to get put in the position where there's some sort of automatic pilot here," he said.³⁶

Prior to the U.S. attack on Libya, President Reagan raised a theme which was later used to justify the military response. "American power," he said, "as long as it is used wisely and justly, is an undying symbol of hope for oppressed peoples around the world."³⁷ After the raid, he warned "dictators and terrorists" to accept the

consequences if "cowardly acts" were taken against Americans.³⁸ Signalling a more active response to terrorism in the future, he also said, "We are slow to wrath and hesitant to use the military power available to us." While peaceful solutions were preferred, the United States will act again. "America will never watch passively as our innocent citizens are murdered by those who would do our country harm," said the President.³⁹

THE DEMOCRATIC REVOLUTION

If the tragic deaths of 241 U.S. servicemen in Beirut in October 1983 started the chain of events leading to a greater willingness to use force against perpetrators of terrorist acts by April 1986, the invasion of Grenada in October 1983 led to increased assertiveness in support of democratic institutions. This assertiveness was evident in President Reagan's "winds of freedom" speech before the International Forum of the U.S. Chamber of Commerce, delivered just prior to departing for the May 1986 Tokyo economic summit. Calling Marxist-Leninist models of development dismal failures resulting in poverty and deprivation, he described the present era as a "vernal equinox of the human spirit" marked by freedom and prosperity, of peoples sharing increased economic well-being under democratic governments.⁴⁰

This optimistic theme was also central in the President's message to Congress of March 14, 1986, where the philosophical underpinnings of what is termed the Reagan Doctrine were addressed. "The tide of the future is a freedom tide," the President declared, a "democratic revolution" where "countries that want progress without pluralism, without freedom, are finding that it cannot be done." This turn towards democracy, President Reagan said, runs counter to the "arrogant Soviet pretension" of the Brezhnev doctrine. The assertion that Moscow's gains cannot be reversed lacks any moral or political basis. Soviet expansionism of the 1970s was to a large extent attributable to our failure to maintain military

and economic power, Mr. Reagan said. A commitment to strength will produce democratic, peaceful results. "Diplomacy unsupported by power is mere talk," but power disassociated from our values and political purposes will have no lasting results.⁴¹

Secretary Shultz has also spoken of the trend toward democratic institutions and the need to maintain military and economic strength to reduce opportunities for Soviet exploitation. "Strength and diplomacy go hand in hand," he said, indicating that there are no peaceful models for transitioning from Marxist-Leninist totalitarianism. This requires support for overt and covert aid, and, "as a last resort, direct U.S. military action." Describing Marxist-Leninist movements as moral, political and economic failures, this theme of optimism and progress is indeed strong.⁴²

Former Secretary Weinberger was similarly optimistic in his February 1986 *Annual Report to the Congress*, where he described the basic U.S. national strategy as countering the primary threat to U.S. security: the Soviet Union. By protecting U.S. vital interests against aggression and subversion, the internal contradictions of the Soviet system would come to the fore, which, it was implied, would lead to a reduction of Soviet expansionism abroad and greater internal political liberties. Since World War II, the defense strategy to fulfill this U.S. national strategy has been deterrence; the geopolitical strategy was security through collective efforts with allies; the economic strategy was world economic growth and stability through an effective international economic system; and the political strategy was the promotion of democratic institutions through example and positive assistance.⁴³

By implementing the national strategy of containment through these four principal components--not just military force alone--former Secretary Weinberger was convinced Moscow was now facing multiple adverse trends: "The political and cultural values enshrined in Soviet communism are falling behind the march of history."⁴⁴

Speaking before a Washington conference on low-intensity conflict, Mr. Weinberger said that if the United States is willing to assist those fighting to preserve their freedom, the country should also not ignore those who have lost their freedom and wish to regain it.⁴⁵

AT THE CROSSROADS

The debate over the appropriate use of military force has now been transformed by the dual trends of responding to terrorist acts and support for democratic institutions. This transformation indeed places the United States at a crossroads. Has the U.S. reaction to Libyan-supported terrorism clarified the nature of an appropriate military response to "gray area" security challenges? Has the invasion of Grenada begun the process of restoring democracy to captive peoples subjugated by totalitarian regimes?

At the policy level, there are those such as Daniel Pipes who claim the Libyan raid repeated the error of Vietnam by applying "incrementalism" when less restraint would have provided a more complete, permanent solution.⁴⁶ Others suggest that the overthrow of repressive dictatorships in the Philippines and Haiti will lead to an increased "temptation to meddle" beyond the effective limits of American resources and capabilities.⁴⁷ Finally, former diplomat George Kennan would warn us that the "histrionics of moralism" may push the United States to accept commitments beyond our means and vital interests.⁴⁸

Also at this crossroads are ongoing low-intensity conflicts, including the Cuban-Nicaraguan secret war against El Salvador and Nicaragua's subversion of Honduras and Costa Rica. According to one authority, the "core threat to contemporary world order has been state-sponsored terrorism, guerrilla warfare and other forms of covert attack."⁴⁹ Soviet and Cuban military deliveries to Nicaragua have been extensive, while the

United States has provided rebel forces with military and nonmilitary assistance.⁵⁰

Despite calls that "Latin America's Democracies Need Us,"⁵¹ the issue of the use of force is further obfuscated by semantic abuse involving the "ongoing piracy and fraudulent usage of the vocabulary of 'democracy'" to conceal acts of lawlessness and undermine the moral and political basis of Western governments. Additionally, there is little appreciation of law as the carrier of shared values, the arbiter of civil life and the guarantor of public peace. If democracy and the rule of law have become "long established as irreducible values in the United States," both are now the camouflage of totalitarian systems.⁵² This confuses basic defense issues, makes support for democratic institutions more difficult, and conceals gross injustices and human rights abuses by "peoples democracies" and "national liberation movements" hostile to fundamental values of individual rights and freedom.

Hence, the confusion of ends and means, strategy and tactics for defending vital American interests against the very type of low-level, low-cost, low-risk threat to which the United States and the world's democracies have been the most vulnerable. If Vietnam served as the example of American obscurantism and lack of determination and purpose, Grenada proved that effective, rapid action can be taken when the U.S. interest is clear. Because the use of force is inevitably a moral decision, it is not used lightly, despite adversaries who use political terror and disinformation routinely against the open societies of democratic states. If our political vocabulary has long been under assault, the protracted, insidious political-military guerrilla struggle is now incrementally challenging fragile regimes least able to protect themselves.

While the U.S. use of force against Libya signalled a new readiness to act against an arch-villain whose danger and depredations were obvious, force used indiscriminately or independent of other elements of national power may be of little value. Former Secretary

Weinberger and his views reflected the integral nature of military force for deterring aggression and hostile acts against vital U.S. interests. He also recognized that a military option must be the final solution when all other avenues have failed, when developmental aid and security assistance are inadequate to the task.

Secretary Shultz, for his part, recognized what is at stake within the contemporary dynamics of change. He too acknowledged that effective, timely action is necessary if Nicaragua is not to follow Vietnam's path of oligarchic rule. Mr. Shultz's harshest speech since being appointed Secretary of State was delivered on the tenth anniversary of the fall of Saigon and one day after the U.S. House of Representatives rejected a \$14 million aid package for Contra forces. Mr. Shultz said Viet Cong pledges of freedom and tolerance for the South Vietnamese were utterly deceptive. Charging "escapism about the realities of power and security," he noted that increased Soviet influence and human tragedy, "this time near our borders," are the true parallel between Vietnam and Central America.⁶³ It is this sense of frustration and *deja vu* which propels the former Marine officer to advocate "prudent force" to prevent this harsh possibility from becoming reality.

CONCLUSION

Former Secretary Weinberger's six criteria for the use of military force represent an adaptive, pragmatic approach to policymaking, where the President and Congress examine each situation on its merits to determine an appropriate response. They recognize that the Clausewitzian political purpose of war must be consistent with the national interest, that public and legislative support must be earned and maintained, and that adequate means must be employed if this final tool of a democracy is to be successfully used to secure that political objective. Our failure to articulate and pursue a properly defined, clear and consistent quintessential

political objective in Vietnam led us down a path we need not have traveled.

Fundamental strategic errors in the conduct of the Vietnam War led to a failure of U.S. will and purpose as we sought to fight a war of attrition for a negative goal within artificial boundaries. To our adversaries, Vietnam served as imprimatur and model for the ensuing adventurism which has since occurred. The example of Grenada and the deliberate U.S. attack on Libya represent renewed support for democratic values and institutions and a willingness to act, using all elements and instrumentalities of national power, to eliminate terrorist threats.

The divergence of views between Secretary Shultz's "prudent force" and former Secretary Weinberger's "cautious force" are a matter of perspective in the sense of "where you stand depends on where you sit."³⁴ The Secretary of State is a man of unquestioned authority and diplomacy, but few direct means of influencing events. The former Secretary of Defense, as the leader of the largest executive department, had many means at his disposal with which to directly influence evolving situations. While the Department of State is represented by embassies, consulates and missions worldwide, the Secretary of Defense commands, after the President, the means to respond directly and violently to situations requiring armed force. With this capability, the Secretary of Defense is well aware of the death and tragedy the use of military force entails. When this instrument of force is used, the Secretary of Defense is the cabinet officer who applies it and sees its direct results.

As the above chronology reveals, divergent views on the use of force have narrowed to considerable convergence. After the U.S. attack on Libya, it was Mr. Shultz who urged caution while Mr. Weinberger defended U.S. actions as justified. For the American public, the debate has been a catharsis of past uneasiness following Vietnam. The realities of Grenada and international terrorism, however, have provided a new focus for

supporting democratic institutions and combatting terrorist acts. In this new focus a consensus has evolved. While it is inevitably temporary and situational, it reflects an increased readiness to use appropriate military force, decisively and quickly, to secure national interests. In this sense, the Shultz-Weinberger debate has been useful in clarifying this most important issue. Its evolution and its result, both in terms of policy determination and policy implementation, have been constructive.

In the final analysis, the American debate over the use of "prudent force" versus "cautious force" will never conclude. Its conduct and its beneficial effect could only have occurred in a healthy, open society sensitive to central democratic values. While "gray area" challenges will be with us for the foreseeable future, the determination and the will for the appropriate use of military force are now more advanced than at any previous time in this century.

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41. Ronald Reagan, "Freedom, Regional Security, and Global Peace," *Special Report No. 143* (Washington: U.S. Department of State, March 14, 1986), pp. 2-5.

42. George P. Shultz, "Moral Principles and Strategic Interests: The Worldwide Movement Toward Democracy," *Current Policy No. 820* (Washington: U.S. Department of State, April 14, 1986), pp. 2-5.

43. Weinberger, *Annual Report to Congress*, pp. 27-28.

44. *Ibid.*, p. 57.

45. Fred Hiatt, "Weinberger Urges Aid to Anticommunist Guerrillas," *Washington Post* (January 15, 1986), p. A4.

46. Daniel Pipes, "Libyan Raid Didn't Employ Vietnam's Lessons," *Wall Street Journal* (April 23, 1986), p. 30.

47. Henry S. Bienen, "The Dangers of Neo-Interventionism," *New York Times* (March 5, 1986), p. A27.

48. George F. Kerinan, "Morality and Foreign Policy," *Foreign Affairs*, LXIV (Winter 1985/86), pp. 205-218.

49. John Norton Moore, "The New Face of War: Covert Conflicts," *Wall Street Journal* (April 25, 1986), p. 27.

50. Ikle, "Taking Sides in the Small Wars," p. 11.

51. Robert K. Dorman, "Latin America's Democracies Need Us," *ROA National Security Report*, IV (April 1986), pp. 14-16.

52. Adda B. Bozeman, "U.S. Foreign Policy and the Prospects for Democracy, National Security, and World Peace," *Comparative Strategy*, V (Autumn 1985), pp. 223-237.

53. William Beecher, "Shultz Warns Nicaragua Can Go Way of Vietnam," *Boston Globe* (April 26, 1985), pp. 1, 5.

54. Graham T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown and Company, 1971), p. 176.

CHAPTER 3

THE HISTORICAL SIGNIFICANCE OF THE WEINBERGER DOCTRINE

Charles H. Marthinsen

INTRODUCTION

To some reporters and commentators, Secretary of State George P. Shultz sounded like a "Secretary of War" and former Secretary of Defense Caspar W. Weinberger came across as a "Secretary of Peace" in their public discussions about the circumstances in which the United States should use force in advancing or defending its overseas interests. Actually, our history is one of continuing debate about the use of force. Such debates have become sharper since World War II because we have had to face challenges more ambiguous than those we faced before we attained superpower status. Attracting and maintaining public support for the military option is always more difficult in such circumstances.

A close examination of the statements of the two secretaries, since Shultz opened their "debate" with his speech at the Park Avenue Synagogue in New York in October 1984, suggests that we may be dealing with much less fire than reportorial smoke in assessing their differences. About conventional and even nuclear warfare they appear to have been in complete agreement. If there was any discord it would seem to relate, at least in theory, to employing military force in low intensity conflict

situations such as peacekeeping missions or operations designed to counter terrorism which represents perhaps the most ambiguous challenge of all. Having said that, one notes that both secretaries favored the strike against Libya and the forcing down of the Egyptian civilian plane carrying the "Achille Lauro" hijackers as well as the Grenada Expedition. We could have expected them to unite in opting to use force when and as circumstances seem auspicious for launching similar, lightning-like operations against other, lesser powers popularly seen as hostile.

THREE CENTURIES OF DEBATE

"As American citizens we expect and desire that our own nation will involve itself in war only under rare circumstances of impelling need and then only for political ends that are reasonably consistent with its basic political philosophy." Thus Professor Bernard Brodie, the distinguished scholar and strategist, idealizes the nation's attitude towards war. In fact, war has not been "rare" in our history. We have resorted to arms on numerous occasions both within our frontiers and outside our borders.² Some of these actions were long in duration and very costly in blood and treasure such as the Civil War, World War II, Korea, and Vietnam. Others were limited in time and costs, as were, for example, our war with Spain, the Grenada operation and, most recently, the air strike against Libya.

Often we had recourse to arms because we were attacked or came to believe that we were under immediate threat of attack. A number of military operations launched were punitive in nature. Some expeditions were designed to safeguard American lives, properties, and commercial interests that were seen to be endangered. All too frequently history records that we went to war to acquire territory. Whatever the reason or excuse for employing armed force, unless the operation was quickly mounted and successfully completed with limited costs, domestic debate about the use of military force almost always arose. Rarely indeed have the American people taken up arms

with a consent approaching unanimity; doves and hawks have always been among us.

As a matter of fact, we Americans were debating about the use of force before we won our interdependence. Roger Williams, who later founded the colony of Rhode Island, opposed vigorously his fellow Puritans in the Massachusetts Bay Colony who "sanctioned bloody slaughters of the aborigines on the contrived grounds that the Indians were children of Satan in whose extirpation a dour God rejoiced . . . Williams scoffed at such reasoning . . . inveighed against the murder of innocents as a gross immorality . . . (and) . . . insisted that the Indians owned North America by virtue of their occupation and that the English must purchase the land if they were legally to settle it."³ Williams was among the first Americans to become involved in the continuing debate about whether, when, and how our society should have recourse to war.

Sadly enough, debates about our numerous subsequent campaigns against various Indian nations were rather muted. While public criticism of our treatment of Indians in the "resettlement" and "pacification" programs that cleared much of the country of its unwanted aborigines was not unknown, it was not persuasive to settlers, miners, and politicians who foresaw a manifest destiny for the United States in which the original inhabitants did not figure.

Other conflicts stirred up intense public debates. The New England states, their commerce stifled by the British blockade, came within a whisker of seceding from the union during the War of 1812. Only the timely signing of the Peace Treaty of Ghent saved the nation from a test of its unity fifty years before the ordeal of the Civil War.

A similar regional aspect colored the extensive debate that took place about our war with Mexico. Opponents of that contest were

motivated primarily by antislavery feelings. Abolitionists and Free Soilers saw the war as a slaveholders' conspiracy to add to the Union Mexican land they thought suitable for slave agriculture. They also chided the United States for bullying a weak and divided neighbor. The hostility to the war was centered in New England but (was) significant also in the Midwest. Congressman Abraham Lincoln first came to national attention as an antiwar Whig who challenged the administration to show the spot on the map where, it was alleged, Mexican troops had attacked Americans on American soil. The implication was that the government fabricated the incident.⁴

Lincoln lost his seat in the next election, perhaps because he had opposed a war that was uniformly successful, brought the nation enormous territorial gains, and reinforced popular belief in our proud "destiny."

Opposition to the war with Spain, in the view of one student of antiwar movements in our history, was part of a durable spirit of anti-imperialism in the United States. This spirit "was based in part on the fact that the United States had been born in a colonial struggle (and) that it was a mockery of American principle for the nation to fasten its controls on other peoples. Anti-imperialists also repeated the admonition of the Mexican War that it was unseemly for the United States to pick fights with weak nations."⁵

President Wilson's determined efforts to maintain our neutrality during the early years of World War I, though they turned out to have been exerted in vain, reflected his and most Americans' desire to avoid involvement in the imperial rivalries of the Old World. But the political climate can and does change quickly. Reelected in 1916 as the man who "kept us out of war," Wilson the next year sought and obtained from a willing Congress a declaration of war against Germany. In the interim, Germany's decision to resume unrestricted submarine warfare, the ruthlessness of the German occupation of Belgium, and Berlin's clumsy endeavors to inflame revanchist feelings in Mexico had fostered a sea change in the domestic political

environment. Additional credit for that change, of course, must go to the resourceful Allied propaganda apparatus in the United States, which publicized widely both the real and imagined threat that Germany posed.

More recently a revived and pervasive isolationism, reflected clearly in the Congress, restrained President Franklin Roosevelt from moving with greater dispatch to succor the Western democracies early in World War II. On the eve of Pearl Harbor in 1941, legislation extending the draft--a measure the administration painted as essential in view of the threats developing in Asia and Europe--passed the House of Representatives by only a single vote.

KOREA, VIETNAM, AND PUBLIC OPINION

In the years since World War II, the United States, having achieved superpower status and having been more or less forced to assume global responsibilities as leader of the world's democratic societies, has faced intensified domestic debates about the use of force. The bitter conflict in Korea, which has been described as the "first modern limited war,"⁶ proved costly in lives, in treasure, and in political fallout. Criticism of "Mr. Truman's War" by the Republican opposition in the Congress and public impatience with the protracted negotiations for an armistice contributed to Eisenhower's victory at the polls and, eventually, to the restoration of the *status quo ante* in the Korean Peninsula. More than thirty years after the guns ceased firing, controversy continues about how effectively we devised policy and applied military force in advancing our national interests in that war.

Even more traumatic was our experience in Vietnam, which divided our society as it had not been divided since the Civil War. The war in Vietnam "had a profound impact upon public and official American attitudes toward the outside world For the American people and their leaders, avoiding 'another Vietnam' became a kind of national obsession" Controversy began early and still

rages about the rights and wrongs of our involvement in that long and bloody conflict. As early as February 1966, in precise, measured testimony before the Senate Foreign Relations Committee, diplomat and scholar George F. Kennan expressed serious regrets about our recourse to force in Vietnam. Kennan testified,

The first point I would like to make is that if we were not already involved as we are today in Vietnam, I would know of no reason why we should wish to become so involved, and I could think of several reasons why we should wish not to. Vietnam is not a region of major military, industrial importance. It is difficult to believe that any decisive developments of the world situation would be determined in normal circumstances by what happens on that territory. If it were not for the considerations of prestige that arise precisely out of our present involvement, even a situation in which South Vietnam was controlled exclusively by the Viet Cong, while regrettable, and no doubt morally unwarranted, would not, in my opinion, present dangers great enough to justify our direct military intervention. From the long-term standpoint, therefore, and on principle, I think our military involvement in Vietnam has to be recognized as unfortunate, as something we would not choose deliberately, if the choice were ours to make all over again today.⁸

Kennan's testimony foreshadowed the punishing national debate about that very ambiguous war. The American public generally withdrew its confidence from political leaders who failed to maintain popular support for their policies.

In a penetrating analysis of applying military power to advancing policy goals, Professor Michael Howard underscores the centrality of public opinion when the nation resorts to arms. Howard describes "four dimensions" of a national strategy:

- Logistical: sustainment of forces abroad.
- Operational: strategy and tactics in deploying forces abroad.

- Social: stability, cohesion, morale of the population; confidence of the citizens in their leaders; and the abilities of the leadership.
- Technological: gaining superiority in weaponry.

Howard contends that while we must keep all four dimensions in balance, since World War II the social dimension has proved to be "incomparably the most significant." In discussing the Vietnam War, Howard asserts that if the "sociopolitical struggle . . . was not conducted with skill and based on a realistic analysis of the societal situation, no amount of operational expertise, logistical backup or technical know-how could possibly help."⁹ The tragic denouement of our Vietnam experience suggests that the "sociopolitical struggle"--domestically and internationally--is indeed pivotal.

As we have seen from the foregoing potpourri of historical recollections, debates about whether and when and for how long the United States will go to war have been with us for more than three centuries. The outcome of such debates, assuming the time involved permits the leadership, interest groups, elite opinion makers, and the general public to engage themselves in the matter, will be a national consensus that reflects the public's appreciation of the arguments for and against the use of force. As pointed out earlier, some operations are organized and carried out so swiftly that no real debate is possible. If the operation is perceived to have been a success for U.S. arms (e.g., Grenada), criticisms of it are likely to have no substantial effect on the political leadership. If the operation is seen as a failure (e.g., the Marine Peacekeeping Mission in Lebanon), political costs can be heavy.

SHULTZ VERSUS WEINBERGER?

The "debate" between Secretary Shultz and former Secretary Weinberger about the use of force in many ways reflected the same, centuries-old concerns sketched above. In fact, one wonders if there was any substance at all to what has been described as their "fight over whether to fight."

Quite clearly representing his Department and the philosophy and preferences of his professional military advisors and subordinates, the former Defense Secretary sought to prescribe a narrow political context in which armed force might be employed to secure or advance our interests. Because they know best, and thus fear most the hazards of war and, because they are especially sensitive to the price of failure and the risk of being made scapegoats for flawed national policy, Weinberger and his former military colleagues would see us commit forces to combat only:

- For vital U.S. and Allied interests.
- In sufficient numbers and with assured sustainment.
- To achieve clearly defined objectives.
- Under continuing, searching assessments of the efficacy of our involvement.
- With assurance of the moral and material support of the Congress and the general public.
- After all peaceful efforts have been exhausted.

These are rational and reasonable tests from any point of view, but particularly from the point of view of Department of Defense managers and professionals. They must deal daily and directly with the fact that lives are at risk in any

conflict. The managers must be aware of the political risks attending what Clausewitz labeled the "friction" of war.

Former Secretary Weinberger's views track closely with Professor Howard's analysis of the several dimensions of strategy, discussed above. Weinberger detected a "fatal flaw" in

theories developed in the 1950's and early 1960's . . . (which held that) . . . limited war was essentially a diplomatic instrument--a tool for bargaining with the enemy . . . centrally directed by the political leadership, and applied with precise control. The gradual application of American conventional power, combined with the threat of increased and wider application of that power, would, according to the theorists, persuade America's opponents to accept a settlement while they avoided strategic defeat.

The flaw in these theories was "their neglect of the domestic political realities of American democracy."¹⁰

The former Defense Secretary underscored the fact that in all of our wars . . . "except for occasional short excursions," . . . prior to Korea and Vietnam, the political leadership entered into the public debates and managed to win the support of the Congress and the general public. In those two controversial conflicts the leadership failed to attend to the social dimension of our national strategy."

For his part, Secretary of State Shultz saw that the threat to employ force and the reality of employing it are legitimate, indeed essential, options that must be available to the nation's leaders in their efforts to safeguard our security and interests internationally. In a sense echoing Clausewitz's dictum that "war is merely the continuation of policy by other means,"¹² Shultz argued that the military option must be available if policy is to be successfully implemented.

The Secretary of State can sound very much the warrior. Shultz has said, ". . . power and diplomacy must always go together, or we will accomplish very little in this

world. Power must always be guided by purpose. At the same time, the hard reality is that diplomacy not backed by strength will always be ineffectual at best, dangerous at worst."¹³ This may correctly be described as a realist's or pragmatist's view in that it reflects the experience of organized societies since Herodotus. At the same time and notwithstanding this realpolitik view, Shultz recognized that "Americans will always be reluctant to use force It is a mark of our decency."¹⁴

More to the point, in a speech delivered in Washington in January 1986, Shultz expressed views virtually identical to Weinberger's. The Secretary of State, addressing a conference convened jointly by his Cabinet colleague and the National Defense University, said that

. . . the essence of statesmanship (is) to see a danger when it is not self-evident; to educate our people to the stakes involved; then to fashion a sensible response and rally support. . . . Our intellectual challenge is especially to understand the need for prudent, limited, proportionate uses of our military power, whether as a means of crisis management, power projection, peacekeeping, localized military action, support for friends, or responding to terrorism--and to coordinate our power with our political and diplomatic objectives We should use our military power only if the stakes justify it, if other means are not available, and then only in a manner appropriate to a clear objective.¹⁵

A careful reading of these and of Shultz's and Weinberger's other public remarks on the use of force suggests, at least to me, that there was precious little substance to a "debate" between the Secretaries. The fundamental issue is the same one that has been debated by Americans throughout our history: in what circumstances will we employ our military force in order to protect or advance our "vital" interests?¹⁶

PUBLIC SUPPORT IS KEY

Perhaps the most difficult test of the six listed by former Secretary Weinberger is number 5: "Before the United States commits combat forces abroad, the U.S. Government should have some reasonable assurance of the support of the American people and their elected representatives in the Congress."¹⁷ A supportive public opinion is an absolute prerequisite for conducting a successful foreign policy.

The Congress, the White House, the National Security Council, the Department of State, and the Department of Defense combine in intricate liaison to identify our interests; define our national objectives; shape and sustain our armed forces; and ensure that all efforts short of force have been exerted before we resort to military means. But this complex process depends ultimately on an even more complex actor, the general public.

Professor Cecil V. Crabb, Jr. has underscored the "centrality of public opinion" in the formulation and execution of American foreign policy. Crabb suggests that public confidence in an administration--the administration's "credibility"--must be maintained at all costs. Once public confidence in the leadership begins to erode, the administration's foreign policy and the administration itself are at hazard. The danger of eroding public confidence is least, Crabb points out, in times of crisis. When a situation arises that threatens American lives or our national security, an otherwise preoccupied public swiftly becomes involved in the crisis and is "galvanized" into demanding that the President, as Commander in Chief, "do something." In such circumstances, "it is better for a President to act ineptly than to fail to act at all."¹⁸

Decision and action on the part of the Executive are key elements, regardless of the outcome of the crisis. President Kennedy in the Bay of Pigs fiasco and President

Carter in the failure of the Tehran Rescue Mission enjoyed about as much broad popular support because they "tried" as did President Ford in the vigorous Mayaguez Rescue Mission and President Reagan in the much-applauded invasion of Grenada.

Having said that, one must recognize that any administration faces the threat of an erosion of public confidence if it mounts military operations over the objections of substantial numbers of citizens. That threat will likely grow rapidly if the operations require intense political-military involvement over a long period of time. The unfolding debate about U.S. support for the Duarte regime in El Salvador and the "Contras" in Nicaragua sharply divides public opinion now and the debate seems destined to become increasingly heated. As I write, allegations are being made about American-Israeli collusion in selling arms to Iran, "laundering" funds earned thereby, and providing the funds to the Contras, in violation of Federal statute. Whatever the fallout from this most recent chapter of the Iran Saga, it seems clear that President Reagan does not now enjoy the full confidence of the public in this regard and, indeed, that the public support he needs to pursue a successful foreign policy in the Gulf may well contract further. If debates about our Central American and Middle Eastern policies can be described as divisive, how much more so are our even less-focused debates about peacekeeping and the murky world of terrorist action and counterterrorist operations?

DEBATES ABOUT LIMITED WAR AND PEACEKEEPING

In such clear-cut circumstances as a conflict between NATO and the Warsaw Pact in Central Europe (even if it should escalate to the nuclear level) or a highly limited and localized expedition such as that mounted in Grenada, the reaction of the American public is, by and large, quite predictable. National self-defense; the protection of American lives; and fidelity to friends and allies threatened

either directly or indirectly by the Soviet Union: these are grounds substantial and obvious enough to ensure the support of the electorate.

In more uncertain circumstances, such as the "limited" wars in Korea and Vietnam as we have discussed, public support is less predictable, especially over the long run. Perhaps the public is not convinced that truly vital interests are threatened. Many may judge that their fellow citizens' lives are in peril only if Americans are sent or choose to go to the fighting zone. It can be difficult to persuade the public that threatened friends and allies are paragons of democratic virtue worthy of American blood.

We can see in the case of the peacekeeping operation in Lebanon (1982-84) that the public will withdraw support from an administration whose policies it comes to see as flawed. Our military involvement in Lebanon was designed to bring some peace and order to a Lebanon battered by civil war and occupied by both Israeli and Syrian forces. U.S. Marines joined French, Italian, and British military colleagues in a small Multinational Force (MNF) which oversaw the evacuation of PLO and Syrian forces from besieged Beirut. The MNF withdrew thereafter, only to have to return in the wake of the massacre of hundreds of civilians at the refugee camps of Sabra and Shatilla in Israeli-occupied sections of the Lebanese capital.

Besides protecting the survivors of the massacre, the MNF was perceived by Secretary Shultz as a means of buttressing the Government of Lebanon headed by President Amin Gemayal. At the same time the Secretary participated personally in brokering the Lebanese-Israeli Agreement of May 17, 1983. That accord aroused a firestorm of opposition and vastly increased the pressures on the Gemayal regime. Israeli determination to play a major if not decisive role in Lebanese affairs, though endorsed by the U.S. Government and facilitated by Gemayal's collaboration, was insufficient to overcome the fierce opposition of the various groups and factions even

more determined both to restructure Lebanon's society and to frustrate Tel Aviv's goals.

In these volatile circumstances, the attacks on the Marine headquarters and a French barracks in Beirut by suicide bombers on October 23, 1983 (241 Marines and 58 French soldiers died), while certainly shocking, should not have been surprising. The disaster did encourage a public clamor for the withdrawal of all American forces from Lebanon. This, in turn, doomed our policy of shoring up Gemayal and bolstering his agreement with the Israelis. Even our intervention with additional military power in the form of air strikes and bombardments by the battleship "New Jersey" failed to retrieve the fortunes of the central government's forces. In February 1984, our Marines were "deployed" out of Lebanon. In March 1984, the Lebanese-Israeli Agreement was cancelled. In January 1985, Israeli armed forces began a unilateral, phased withdrawal from many parts of Lebanon they had occupied.

In this instance, American diplomacy--even though it was backed by military force--proved unsuccessful. The problem was then, and remains today, that American public opinion must be convinced that the national interests at stake in a given situation are "vital" enough to require the shedding of American blood. Public opinion was not convinced that such was the case in Lebanon.

DEBATES ABOUT TERRORISM

At the Washington conference on Low-Intensity Warfare in January 1986, Secretary Shultz, after describing differing assessments of the Nicaragua affair and its influence on El Salvador, *ex post facto* arguments about intervention in Grenada, and the continuing controversy about policy toward South Africa, asserted: "Terrorism, of course, is the most striking example of ambiguous warfare." He then proceeded to define terrorist acts as "a form of criminality, waged by surprise against

unarmed men, women, and children in cold blood . . . sometimes the random, senseless acts of zealots; more often systematic and calculated attempts to achieve political ends."¹⁹ While Shultz's definition is one on which he and Weinberger seemed to be in absolute accord, it is one on which domestic (and world) public opinion is very divided. Controversy about the ends and means of Puerto Rican "nationalists," Basque separatists, African National Congress activists in South Africa, advocates of a "Kalestan" for the Sikhs of India, Palestinian "moderates" as well as "radicals" seeking self-determination, similarly-inclined Irish Republicans in Northern Ireland, Tamils seeking autonomy within Sinhalese-dominated Sri Lanka, and similar groups will continue to prevent the formation of a global consensus on a definition of terrorism, as well as on how to deal with the "terrorist" advocates of these several causes. Each one of the groups involved is acting more or less systematically and calculatingly to achieve political ends which it perceives as desirable, necessary, or even vital to its constituency. Indeed, some of these causes attract considerable support among quite respectable sectors of society. In this they differ markedly from such anarchist/nihilist/Leninist-communist terrorist organizations such as the Red Army Faction, the Baader-Meinhof gang, the Red Brigades, the Abu Nidal Faction, and Action Directe.

As a matter of fact, although many careful definitions of "terrorism" have been formulated by various political leaders and by any number of scholars, there is quite obviously a continuing, vigorous controversy both at home and abroad about attaching the label "terrorist" to particular individuals, groups, or even states. While acts of wanton brutality against fellow human beings are rightly condemned as terrorism pure and simple, there are circumstances in which--Secretary Shultz's repeated assertions to the contrary notwithstanding--"one man's terrorist may indeed be another man's freedom fighter." Ambiguity seems to be the rule in the course of rebellions and insurrections, as the following examples suggest.

In 1953, during the long and bitter struggle for Kenyan independence from British colonial rule, the late Jomo Kenyatta was imprisoned after being found guilty of involvement with the Mau Mau terrorist organization. A decade later, following the triumph of the Black revolutionaries, Kenyatta was elected President of an independent Kenya. He is remembered today as the "Wise Father" of his country and holds a prominent place in the history of modern Africa as a liberator and statesman.

In 1978, the Nobel Peace Prize was awarded to Menachem Begin, then Prime Minister of Israel, who that year signed the first peace treaty between his country and an Arab state, after three decades of Arab-Israeli hostilities. Begin first achieved reputation in the Middle East during the struggle for control of what was the British Mandate of Palestine prior to the creation of the State of Israel in 1948. He was the leader of the Irgun Z'vai Leumi which was responsible for many terrorist outrages including the bombing of the King David Hotel in Jerusalem and, during the first Arab-Israeli War, the massacre of more than 200 men, women, and children in the Palestinian village of Deir Yassin. Kenyatta and Begin obviously saw their support of, and involvement in, violence as fighting for freedom. Kenyatta's adversaries--the British colonial authorities in Nairobi--and Begin's opponents and his rivals--the British mandatory regime and the mainstream Zionist leadership in Tel Aviv--condemned their acts as terrorism.

Today bombs planted in restaurants and shopping malls in South African cities are condemned by the Pretoria regime as "terrorist" acts carried out by the outlawed African National Congress. Many see such acts not as "terrorism," but rather as the work of patriots seeking to extract from an unjust minority government long denied basic human rights.

In fact, the use of such terms as "terrorist," "freedom fighter," "resistance leader," "contra," and "guerrilla" may often reflect more the preconceptions and even prejudices

of the speaker or writer than they reflect reality. Desperate or despairing individuals, groups, and states may feel driven to attack the citizens and property of those whom they perceive to be their oppressors. Mau Mau attacks on isolated farmers and their families, Irgunist massacres of simple villagers, and ANC bombings of fast food shops in Johannesburg are acts that have been assessed quite differently by different observers at different times.

One can only conclude that Secretary Shultz and former Secretary Weinberger are both right about the pivotal importance of public support when the leadership is considering recourse to force. Indeed, any "debate" about that or any of Weinberger's six major tests, upon close examination, seems insubstantial. Less certain is whether and how these same tests can be applied to such modern, low-intensity conflict situations as peacekeeping and terrorism.

NOTES

1. Bernard Brodie, *War & Politics* (New York: The Macmillan Company, 1973), p. 5.

2. This incomplete listing gives some idea of the long history of our reliance on force and the degrees of force employed:

- Shay's Rebellion - 1787
- Wayne's Indian Campaign - 1792-95
- Whiskey Rebellion - 1794
- War with Tripoli - 1801-05
- Harrison's Indian Campaign - 1811
- War of 1812
- Black Hawk War - 1832
- Cherokee Campaign - 1835
- Seminole War - 1836-42
- Mexican War - 1846
- Civil War - 1861-65
- Cheyenne and Arapaho Campaign - 1864
- Sioux Campaign - 1876
- Apache Campaign - 1886

Spanish-American War - 1898
 Filipino Insurgency - 1899-1901
 Boxer Rebellion - 1900
 (1st) Nicaragua Expedition - 1912
 Haiti Protectorate - 1915-34
 Mexican Border Expedition - 1916
 (1st) Dominican Republic Expedition - 1916
 World War I - 1917-18
 (2nd) Nicaragua Expedition - 1926-33
 World War II - 1941-45
 Korean War - 1950-53
 (1st) Lebanese Expedition - 1958
 Vietnam War - 1964-73
 (2nd) Dominican Republic Expedition - 1965-66
 Mayaguez Incident - 1975
 Tehran Hostage Rescue Attempt - 1980
 (2nd) Lebanese Expedition - 1982-84
 Grenada Expedition - 1983-84
 Air Strike Against Libya - 1986

3. Joseph R. Conlin, *American Anti-War Movements* (Beverly Hills, CA: The Glencoe Press, 1968), pp. 45-46.

4. *Ibid.*, p. 47.

5. *Ibid.*, p. 48.

6. Brodie, *War & Politics*, p. 63.

7. Cecil V. Crabb, Jr., *American Foreign Policy in the Nuclear Age*, 4th ed. (New York: Harper & Row, 1983), pp. 548-549.

8. Quoted in Brodie's *War & Politics*, pp. 158-159.

9. Michael Howard, "The Forgotten Dimensions of Strategy," *Foreign Affairs* (Summer 1979), pp. 975-986.

10. Caspar Weinberger, *Annual Report to the Congress, Fiscal Year 1987 Budget, FY 1988 Authorization Request and FY 1987-1991 Defense Programs* (February 5, 1986), p. 77.

11. *Ibid.*, p. 78.

12. Michael Howard and Peter Paret (eds. and trans.), Carl von Clausewitz, *On War* (Princeton: Princeton University Press, 1976), p. 87.

13. George P. Shultz, "The Ethics of Power," *Department of State Bulletin* (February 1984), p. 2.

14. *Ibid.*, p. 2.

15. Selected quotes are from an address by George P. Shultz, "Low-Intensity Warfare: The Challenge of Ambiguity," Department of State, *Current Policy No. 783* (January 1986).

16. Controversy about what constitutes a "vital interest" is also destined to be continuous, because of its "subjectivity." See Chapter 8 of *War & Politics* in which Brodie concludes that vital interests "are not fixed by nature nor identified by any generally accepted standard of objective criteria. They are instead the products of fallible human judgment, on matters concerning which agreement within the nation is usually less than universal," p. 343.

17. Weinberger, *Annual Report to the Congress, Fiscal Year 1987*, p. 79.

18. Crabb, *American Foreign Policy in the Nuclear Age*, pp. 264-265.

19. Shultz, "Low-Intensity Warfare."

CHAPTER 4

"WE THE PEOPLE" GO TO WAR: THE LEGAL SIGNIFICANCE OF THE WEINBERGER DOCTRINE

William G. Eckhardt

Law acknowledges the utility and the inescapability of the use of coercion in social processes, but seeks to organize, monopolize, and economize it.¹

The oath of an officer of the Armed Forces of the United States is not to a man, not to a party, not to an ideology, and not to a religion. That oath is to the Constitution of the United States, and the solemn pledge is to defend a living concept embodying the Rule of Law against all foreign and domestic enemies and to give allegiance and to remain faithful to its revolutionary vision. Thousands of our ancestors have died to preserve the very opportunity to allow the continued taking of that oath. An officer is pledging to our country means, talent, and life itself.² The calling is to serve the citizenry in the defense of their persons, property, values, and "way of life."

Common dedication of our citizenry and of the Armed Forces who serve them to this Constitution means that we are a people governed by the Rule of Law. "Law" is more than technical compliance with rules: it is a sense of justice and fairness. Our citizens express this sense of right and wrong at the ballot box. Such is our democracy. When the United States resorts to war, we do not abandon our dedication to law. When the use of force is contemplated, we as a people think internationally as well

as domestically for we are a part of the community of nations. We think "systematically" using history and practical moral reasoning. We are guided in those matters which, through accepted international custom or by codification in appropriately ratified treaties, have become international norms. If the United States acts outside of an acceptable international legal framework by failing to adhere to recognized norms, we alienate our own citizens who demand adherence to the Rule of Law. We also alienate necessary world public opinion and we place in jeopardy the cause for which our country fights.

Although the norms for "going to war" are international, the most easily understood analogy is domestic and involves a violation of criminal law by a fellow citizen. When there is a violation of our domestic criminal law and when credible evidence links a perpetrator to that crime, we turn to trained policemen to keep order. Appropriate police authorities seek permission to apprehend and to seize contraband and in so doing are required to articulate with specificity what they desire to accomplish. The resulting warrant is based on the evolving domestic "norm" or "concept" of "probable cause." In the execution of the warrant, we rely on the professionalism of the police who are guided by and responsible for using certain rules in employing violence. The end result is a peaceful community with as little collateral damage as is professionally possible.

Likewise, when a country breaches international law by aggression which violates the sovereign rights of another state, the injured state is justified--as a last resort--in using force for self-protection. In seeking permission "to kill people and to break things," a state will use the internationally recognized standard of "self-defense." It will attempt to act collectively within the framework of the United Nations Charter or within a regional framework, although on rare occasions it may act unilaterally. The objective of the aggrieved state often will be stated internationally and domestically with specificity. Execution of this "political warrant to wage war," in all likelihood, will

be done by military professionals who are guided by internationally recognized rules. The goals of using violence are preservation of the state and a return to a peaceful international order.

The purpose of this chapter is to examine the evolution, primarily during the last one hundred years, of the legal norms for resorting to the use of force. The culmination of that evolution is Article 2(4) of the United Nations Charter which prohibits the use of force against another state except in self-defense. However, the rise of the Third World and the economic and ideological divisions of our modern world have eroded the consensus once present which prohibited the use of aggressive force and which mandated the collective enforcement of breaches of that prohibition. This current lack of consensus threatens the articulated norms stated in the United Nations Charter. Recognizing this lack of consensus, former Secretary of Defense Caspar Weinberger reopened a public debate with his "Six Tests" for using military power. Hopefully, the end result will be to once again build a domestic and international consensus and to have clearly understood, practical, and enforceable legal norms regarding the use of force.

MOVING TOWARD THE INTERNATIONAL NORM

Background

The international legal norm for resorting to the use of force is the Charter of the United Nations. As we will quickly discover, legal evolution within our century was such that by the time the UN Charter was drafted, the "core language" was already in legal use, was widely recognized, and was thus "in place." In other words, the ideas relating to the use of force in the UN Charter were ideas that evolved over time and were not ideas that were quickly invented by international visionaries at the conclusion of World War II.³ Prior to a detailed examination of this legal evolution, it would be appropriate to briefly

explore the erosion of the concept of nation state sovereignty in international thinking, the resulting shift in our thinking about the right to resort to war, the profound change in warfare itself, and the attempts in this century to regulate war and to impose limitations on warfare.

Modern international law began with the rise of the nation state after the Treaty of Westphalia in 1648. International discourse concerning the use of force outside of national boundaries was channeled by three broad concepts: (1) the nation state system with its attendant nationalism; (2) the notion of sovereignty flowing from an all powerful nation state; and (3) a lack of a well developed or organized international community. In the nation state system, the "community" to which allegiance was given was the state, which fiercely guarded its independence and national interest. States were expected to act in their own self-interest. No idea of "collective good" overcame the fundamental political building block of the time--the nation state. With the all powerful state came the concept of national sovereignty. The right to wage war was inherent in that concept. When states went to war, the law was largely indifferent, for war was almost a duel--a private quarrel to be settled violently by the parties themselves.⁴ Such quarrels were unlikely to have broad regional or global impact. Certainly the law did not attempt to regulate the resorting to violence, although it did attempt to control the effects of violence. Political interest was still limited to one's own country. What happened outside the borders of one's own country was usually considered to be irrelevant. There was no thought of a "community" beyond national boundaries.

During our century the shift taking place in the concepts of the nation state, state sovereignty, and international organization is profound. The all powerful, totally independent nation state is beginning to erode. Our century has seen both the League of Nations and the United Nations, which have been but the two most visible international organizations. Regional organizations link states together for ideological, economic, ecological,

political, and/or military reasons. In short, we are beginning to think in terms beyond the nation state. Likewise, the all important pillar of sovereignty is slowly eroding as we develop more fully the concept of an international community. Slowly we have come to realize that our safety and self-interest are dependent on more than the action of our own local national society. With this realization, we have attempted to collectively organize ourselves politically, economically, legally, and militarily, especially to maintain peace and to provide alternative peaceful means for the settlement of disputes.

This "shift" in thought processes has also resulted in a "shift" in our thinking about war. Prior to this century, states would unilaterally resort to war with impunity as an inherent right--a state prerogative. That is, there was a presumption that a state could resort to war. Legally, our century has reversed that presumption. Substantial limitations have been placed on the competency of states to resort to force. Indeed, we have outlawed aggressive war and demanded individual responsibility for excesses in the conduct of war. If one has "outlawed" the historic concept of war or radically placed in issue its legitimacy, then that development could explain why there are so few "classic" declarations of war in our century and why we refrain from using the noun "war" in our public discourse, substituting such phrases as "confrontation," "aggression," "threats to peace," and "police action" in its place.

Profound changes have occurred in warfare itself, altering the expected norms or standards of behavior in the process. Between the Treaty of Westphalia and the French Revolution, war was limited by the control of professional armies with their professional rules fighting for economically undeveloped states of limited industrial might whose war aims were by necessity limited. The transition to modern warfare began with the French Revolution and reached a plateau with World War I. Change was in the wind. Nationalism was on the rise: ideology was reinforcing the concept of the nation state. States now fought for a "cause." Armed forces were no

longer composed entirely of professionals; they also included growing numbers of citizen soldiers. Citizens themselves became involved in the war-making process, thereby blurring the distinction between combatant and noncombatant. Increased industrial capacity fueled destructive capacity. Hostilities widened in scope and intensity.

Not surprisingly, attempts then were made to reimpose limitations, primarily through international agreements defining military objectives and requiring respect for noncombatants. The primary hurdle to the attempt to restore limits to war was the German theory of *Kriegsraison*, whose main tenet was that any means necessary was permitted regardless of any law or rule.⁵ Two World Wars and the Atomic Age tilted the balance in favor of regulation. Those two World Wars saw war being fought not by individual states but by worldwide alliance systems at enormous cost over vast territories with unprecedentedly lethal weapons for unlimited aims. The distinction between combatants and noncombatants continued to blur as mass draft armies were supported by whole civilian populations. The post-World War II era saw a codification and correction of the deficiencies in the rules demonstrated during that war. Collective security became necessary as the United Nations organized and the world split into ideological camps championed by superpowers.⁶ As we shall momentarily examine, international legal thought clearly outlawed aggressive war.

League of Nations

Many felt that World War I was caused by accident, and that if only there had been an appropriate forum to discuss the problems that precipitated the conflict, those misunderstandings could have been cleared up and the war prevented. Thus, on this belief was the League of Nations intellectually conceived.

The Covenant of the League of Nations took two fundamentally important steps. *First*: It created an express obligation to resort to peaceful means for resolving disputes. Member states were obligated to seek peaceful resolution of disputes through arbitration, through judicial settlement, or through referral to the League Council. Further, states were obligated to wait for three months after the award of the arbitrator, the judicial decision, or the report of the Council before resorting to war. This three month "cooling off period" was to be a further brake to prevent accidental hostilities. *Second*: It began the central organization of the international community which was expected to pass judgment on the conduct of individual states and to vote sanctions if appropriate.⁷

Fundamental change in those historical concepts of the nation state, state sovereignty, and the frailty of the international community had begun. War was still the right of the sovereign nation state but certain "formalities" had to be exhausted first. The right to resort to force was being restricted. States might ignore the established procedure but it was nevertheless like a "constitutional" brake on the use of force.⁸ Equally as important was the new emphasis on international means other than force to settle disputes. There can be no doubt that this was a major alteration of the nation state system. In fact, war was beginning to be considered as more than state against state violence. War now was a transgression against the good of the international community which had a responsibility to take action to prevent it. The Charter of the League was clearly institutionalizing the power of international public opinion against the unlawful use of force.⁹

Kellogg-Briand Pact of 1928

The next major step in international thinking about war came with the Kellogg-Briand Pact, or the Pact of Paris as it is sometimes called. This Pact was not a part of the League, but survived it. Its ideas and language were to be paralleled remarkably in the later United Nations Charter.

The Pact of Paris, more than any other document, is responsible for reversing the presumption in favor of the right to resort to war.

The key language of the Pact is explicit. In it, the contracting powers:

1. in the name of their people condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations with one another; and
2. agree that the settlement or solution of all disputes or conflicts, of whatever nature or origin, which may arise between them shall never be sought except by pacific means.¹⁰

It is important to note that war is condemned and "renounced as an instrument of national policy." Yet even here the inherent right of self-defense is preserved. The United States, along with several other states, made express declarations emphasizing the inherent right of self-defense. The U.S. reservation states that self-defense "is inherent in every sovereign state and is implicit in every treaty. Every nation is free at all times and regardless of treaty provisions to defend its territory from attack or invasion and it alone is competent to decide whether circumstances require recourse to war in self-defense."¹¹

The Pact of Paris is one of the major sources limiting the use of force. Thinking about war had moved from "restraining" it to "prohibiting" it. War as an instrument of national policy had become a violation of international law. In essence, war had become illegal unless the necessity for self-defense had been proven. The presumption that a state had a right to resort to war had been reversed. The Pact is important in its universal acceptance, in the lack of later denunciation of its provisions, and in its emphatic prohibition against the use of force.¹² It clearly was designed to produce desirable results, yet it provided no mechanism for enforcement. However, it became the

basis for Crimes Against Peace in Nuremberg at the conclusion of World War II.¹³

Nuremberg Tribunal

Enforcement would soon follow. Article 6 of the Charter of the Nuremberg Tribunal defined Crimes Against Peace as the "planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances."¹⁴ The validity of this principle was further reinforced when this definition was later unanimously adopted by the United Nations General Assembly.¹⁵

Sovereign power to wage war was now graphically limited. Aggressive war was a crime. Further, international obligations were thrust upon individuals that transcend any national obligations imposed by an individual state.¹⁶ Indeed, it can be argued that the international community assumed an obligation to build a world of just laws that shall apply to all.¹⁷

Our country led this development and pledged itself to be subject to the same legal principles that it had exacted of others. Justice Robert H. Jackson, the U.S. prosecutor at Nuremberg, stated that "[i]f certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."¹⁸

The United Nations was on the conceptual horizon.

THE INTERNATIONAL NORM: THE UNITED NATIONS CHARTER

Today, the United Nations Charter is the legal norm for resorting to the use of force.¹⁹ Its twin beacons of collective action and use of force only in self-defense shine brightly. Aggressive war is outlawed. Peaceful means of settling disputes are expected to be utilized. Collective action is envisioned. Self-defense is permitted. In simple terms, the use or the threat of the use of force is prohibited except in self-defense.²⁰

The very cornerstone of the United Nations Charter system is Article 2(4), which states that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." This cornerstone is even more firmly cemented into place by the preceding section of Article 2, which binds member states to use peaceful means to settle international disputes with the goal of not endangering justice or international peace and security. Note that the theme is collective action and alternative means for peacefully settling disputes. Collective action means a diminution of state sovereign immunity and a recognition of state sovereign equality. The broad thrust of the Charter is to prohibit the use or the threat of use of armed force against another state except in self-defense. The "law" is therefore "controlling" the use of force by outlawing historic state recourse to war as an instrument of national policy and by requiring the pacific settlement of disputes.²¹ The fact that self-defense is the well-recognized exception to this rule is made clear in Article 51 of the Charter. This article declares that "nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken the measures necessary to maintain international peace and security."

There are three elements involved in the use of force: a transgression against the "rules" or international norms, individual or collective self-defense, and internationally ordered sanctions. Thus, an event must breach a legal duty owed to the state claiming self-defense, such as failure to respect the territorial integrity of a neighbor. Once there is a breach of the rules, self-defense comes into play. In concept, self-defense was to only be used until the enforcement mechanism of the United Nations provided the sanction.²² Unfortunately, the dreams of the drafters of the Charter have not been fulfilled, and there is no effective United Nations enforcement of the peace and often no imposition of international sanctions against aggressors. Even with this imperfect system, however, nations using force faithfully pay homage to the United Nations prohibition. Yet there is but a short step between paying homage to an international legal principle and justifying actions taken in national self-interest. Accordingly, some nations merely justify their actions in terms of self-defense. In reality, "self-defense" in the modern context may have become a code word for the use of force.²³

THE DECLINE OF CONSENSUS

No matter what the occasion, at least "lip service" is given to this standard. Yet today the "standard" itself is in jeopardy. The deterioration of the consensus reached by the end of World War II, caused by the rise of the Third World and the further ideological and economic polarization of the globe, has eroded this standard. The principal goal of the United Nations is to restrict the unilateral use of force in international relations. The decay of this goal is apparent. In the words of Eugene Rostow:

A proposition in the form of a rule of law can be considered a legal norm even if it is not universally respected and enforced; but it cannot be characterized as a norm if respect and enforcement are the exceptions rather than the rule.

By this standard, the status of Article 2(4) as law is now in doubt.²⁴

The international response to the use of force in combating terrorism and in combating "wars of national liberation" is straining this standard to the breaking point.

What factors are responsible for this decline? Many would say that Article 2(4) has failed to come to grips with competing ideologies. Legal rules reflect expectations. As our political, technological, and environmental world changes, our expectations change and thus our rules must change or "bend." The Charter prohibition assumes that the threat will be external. Modern experience has been to the contrary. The Charter further erroneously assumes that changes in the ruling elite will not affect basic changes in the system of public order or change external political alliances. In short, it does not take into account competing ideological systems with their wars of national liberation.²⁵ Others would argue that the militarization of the modern state caused by the Cold War is the real culprit. The failure of the international security system envisioned by the United Nations Charter has caused an abandonment of hope for that collective security which undergirds the limitation on the use of force articulated in the Charter. Lastly, and perhaps more troublesome, is the general disenchantment with the relevance of international law to foreign policy. That disenchantment is especially acute when the use of force is involved.²⁶

What evidence is there of this decline? The "change" in the definition of self-defense and the increase in the unilateral use of force point toward a decline in the legal norms.²⁷ The views of the superpowers illustrate the "bending" of the Charter language. In defending the Grenada invasion, the then Ambassador to the United Nations Jeane Kirkpatrick stated that "The prohibitions against the use of force are contextual, not absolute. They provide ample justification for the use of force against force in pursuit of other values also inscribed in the Charter--freedom, democracy, peace."²⁸

This is hardly a "strict constructionist" interpretation. Of even greater significance, and arguably the cause of the

"flexible reaction" of American statesmen, is the view of the Soviet Union that "wars of national liberation" are not, in the Soviet conception, violations of Article 2(4). As articulated by Arkady N. Shevchenko:

[T]he refusal to abandon support for national liberation movements as a weapon against the Western Powers, and persistent efforts by the Kremlin to penetrate the nations of the Third World for the purpose of luring them into its orbit, imply a willingness to project Soviet military power over the globe and risk, if necessary, conventional wars. Here again, the Soviets are guided by Lenin's formulas, which state that 'socialists cannot be opposed to all wars,' particularly 'revolutionary wars' or national wars by 'colonial peoples for liberation' or civil wars. Consequently, the Soviet leadership favors and instigates some local conventional wars. In explaining the Soviet military doctrine in 1981, Defense Minister Dimitri Ustinov called attempts to attribute to the USSR a willingness to launch the 'first nuclear strike' unfounded nonsense, but he said nothing regarding conventional war.²⁹

IN SEARCH OF CONSENSUS

The current debate on the use of force simply ignores the "legal" standards. Former Secretary Caspar W. Weinberger's specification of his "tests" for going to war first articulated in his remarks to the National Press Club on November 28, 1984, does not even mention the United Nations. Further, there is no mention of international law or of the prohibition against the nondefensive use of force. There would appear to be "freedom" from legal or from normative restraint. This frustration with the normative restraint was articulated by Secretary of State Shultz in a fair warning of things to come when he noted the absurdity of the Soviet position of claiming a legal right to support insurrections against Western governments while denying a parallel right to the United States and its allies. He stated:

Democracy is an old idea, but today we witness a new phenomenon. For many years we saw our adversaries act without restraint to back insurgencies around the world to spread Communist dictatorships

The Soviet Union and its proxies, like Cuba and Vietnam, have consistently supplied money, arms and training in efforts to destabilize or overthrow non-Communist government. 'Wars of national liberation' became the pretext for subverting any non-Communist country in the name of so-called socialist internationalism.

At the same time, any victory of Communism was held to be irreversible. This was the infamous Brezhnev doctrine, first proclaimed at the time of the invasion of Czechoslovakia in 1968. Its meaning is simple and chilling. Once you're in the so-called socialist camp, you're not allowed to leave. Thus the Soviets say to the rest of the world: 'What's mine is mine. What's yours is up for grabs.'³⁰

The record of state practice is equally unhappy. States now use force that they would condemn if others did likewise. The Grenada action and our actions in Nicaragua evince a clear difference in our own "legal" thinking about the use of force since the Charter was signed. Soviet moves in Afghanistan and in Eastern Europe seem to ignore legal restraints, and Soviet views on wars of national liberation seem to fly in the face of the letter and the spirit of international norms. Members of the Third World view international law with suspicion as a tool of their colonial subjugation and economic exploitation. When contrary to their interests, they simply ignore it.³¹

The consequences of the collapse of the international standard of Article 2(4) would mean that states would ignore it and that whatever restraint it provides would cease. Yet all is not gloom. Rules accomplish many things: they record behavior, they account for behavior, and they influence behavior. Even states who questionably resort to force attempt to justify that use using the Article 2(4) standard. That standard continues to be used to judge international behavior. Further, "[t]he seeming frequency of discrepant behavior is evident largely because it is so much easier to itemize and to recognize an overt incident of noncompliance than one that is compliant."³² Rules do influence behavior. Accordingly, the real challenge may be to recognize that "Article 2(4) is a legal rule located in the

text of a multilateral treaty which requires adaptation to changing circumstances. The Challenge becomes one of remaining faithful to its core meaning without thereby sacrificing the flexibility ordinarily required in interpreting constitutional norms."³³

CONCLUSION

How does one become faithful to the core meaning of Article 2(4)? What are the ramifications of having an opponent who does not believe in its limitations on the use of force? Answers and a proposed test are supplied by Professor W. Michael Reisman:

Coercion should not be glorified. The promulgation of a norm such as Article 2(4), for all of its ineffectiveness, is a major achievement. But it is naive and indeed subversive of public order to insist that coercion never be used, for coercion is a ubiquitous feature of all social life and a characteristic and indispensable component of the law. In a contest with an adversary that does not accept the prohibition, to forswear force is to disarm unilaterally.

The critical question, in a decentralized international security system such as ours, is not whether coercion has been applied but whether it has been applied in support of or against community order and basic policies, and whether it has been applied in ways whose net consequences include increased congruence with community goals and minimum order.³⁴

In our modern age, the consensus of World War II fades. With the erosion of that consensus, doubts arise concerning the vitality of international prohibitions regarding the use of force. At the very time of this lack of consensus and the erosion of international prohibitions, our world community is faced with the threat of international terrorism. Terrorism exacerbates both the lack of consensus and the erosion of rules concerning the use of force. Into this vacuum steps former Secretary Caspar Weinberger using our ancient just war tradition to seek consensus on unilateral *jus ad bellum*. Consensus will hopefully once again bring legal agreement to firmly

establish an international norm on the use of force. Change does not mean wholesale abandonment of norms. Indeed, if the law does not evolve and if it no longer reflects reasonable expectations, it is "dead" and worthless. Nowhere is there greater need for respected norms in our dangerous world than norms involving the use of force.

Former Secretary Weinberger believed that consensus on the appropriate use of force is so essential that he placed it as one of his "Pillars in a Defense Policy for the 1990s and Beyond." Joining the Weinberger Six Tests as pillars are the strategic defense initiative, arms control, and competitive strategies.³⁵ That very listing demonstrates its importance. In the best of our democratic tradition, former Secretary Weinberger was speaking on behalf of our government to its citizens and to the citizens of the world about the proper use of force. Let us responsively and responsibly join that debate--a debate that, hopefully, will strengthen our legal norms concerning the use of force by insuring that those norms reflect current thinking and expectations. Only then will the "law" live and breathe and not be relegated to obliteration in an idealistic, academic Valhalla.

NOTES

1. W. Michael Reisman, "Criteria for the Lawful Use of Force in International Law," *The Yale Journal of International Law*, Vol. 10, No. 2 (Spring 1985), p. 279.

2. An excellent discussion of the meaning both historically and contemporarily of an officer's oath may be found in Thomas H. Reese, "An Officer's Oath," *Military Law Review*, Vol. 25 (July 1964), pp. 1-41.

3. Edward Gordon, "Article 2(4) in Historical Context," *The Yale Journal of International Law*, Vol. 10, No. 2 (Spring 1985), pp. 271, 274-275.

4. Ian Brownlie, *International Law and the Use of Force by States* (Oxford: Clarendon Press, 1963), p. 424.

5. Bismark reportedly bluntly asked: "What head of government would allow his state and its citizenry to be conquered by another state just because of international law?"

The practical application of the *Kriegsraison* doctrine is found in a German military manual published by the German General Staff in 1902:

A war conducted with energy cannot be directed merely against the combatants of the Enemy State and the positions they occupy, but it will and must in like manner seek to destroy the total intellectual and material resources of the latter. Humanitarian claims such as the protection of men and their goods can only be taken into consideration insofar as the nature of war permit.

The contrasting American articulation in the current comparable military manual reflects our profound respect as a nation for the Rule of Law.

Military necessity . . . justifies those measures *not forbidden by* international law which are indispensable for securing the complete submission of the enemy as soon as possible. (Emphasis added.)

See U.S. Department of the Army Pamphlet 27-161-2, *International Law Volume II* (Washington, DC: Headquarters, Department of the Army, 23 October 1962), p. 10, for detailed citations to the quoted material and for further discussion.

6. *Ibid.*, pp. 1-33. This chapter contains an excellent historical discussion of the development of warfare and its attempted regulation.

7. See generally, J. L. Brierly, *The Law of Nations*, 6th ed. (New York and Oxford: Oxford University Press, 1963), pp. 408-412; and D. W. Greig, *International Law* (London: Butterworths), p. 665.

8. Brownlie, *International Law*, pp. 66-68.

9. Gordon, "Article 2(4) in Historical Context," pp. 273-274.

10. Brierly, *The Law of Nations*, p. 409.

11. Philip C. Jessup, *A Modern Law of Nations* (New York: Archon Books, 1968), p. 163, quoting from *Treaty for the Renunciation of War*, Department of State Publication 468 (1933), p. 57.

12. Brownlie, *International Law*, pp. 91-92.

13. See generally, Brierly, *The Law of Nations*, pp. 408-412 and Brownlie, *International Law*, pp. 74-92.

14. Jessup, *A Modern Law of Nations*, p. 160, quoting from *Trial of War Criminals*, Department of State Publication 2420 (1945), p. 16.

15. *Ibid.*, p. 160, quoting from *Journal of the General Assembly*, No. 58, Supplement A-A/P, Vol. 55, p. 485.

16. Jules Lobel, "The Limits of Constitutional Power: Conflicts Between Foreign Policy and International Law," *Virginia Law Review*, Vol. 71, No. 7 (October 1985), pp. 1071, 1135.

17. *Ibid.*, p. 1074, footnote 16, quoting from H. Wechsler, *Principles, Politics, and Fundamental Law* (1961), p. 157.

18. *Ibid.*, p. 1074, quoting from Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials, *International Org. & Conf. Ser. II, European & British Commonwealth*, Department of State Publication No. 3080, p. 330 (London, 1945).

19. To add depth to theory, it might be helpful to state with precision when a state may lawfully resort to unilateral use of force outside of its own territory. "A state may lawfully resort to unilateral use of force outside of its territory in the following circumstances:

(1) When it has been subjected to an armed attack on its territory, vessels or military forces;

(2) When the imminence of an attack is so clear and the danger so great that the necessity of self-defense is instant (and) overwhelming;

(3) When another state that has been subjected to an unlawful armed attack by a third state requests armed assistance in repelling that attack;

(4) When a third state has unlawfully intervened with armed force on one side of an internal conflict and the other side has requested counterintervention in response to the illegal intervention, or

(5) When its nationals in a foreign country are in imminent peril of death or grave injury and the territorial sovereign is unable or unwilling to protect them."

See Oscar Schachter, "The Lawful Resort to Unilateral Use of Force," *The Yale Journal of International Law*, Vol. 10, No. 2 (Spring 1985), p. 291.

20. Philip Gold articulates the fallacies in thinking that international law is the answer for determining whether a country should go to war.

... reasoning upholds a basic premise of contemporary international law: that nations may resort to arms only in individual or collective self-defense, and then only in response to a prior and clearly defined act of territorial aggression. In effect, this formulation... declares that response to physical invasion constitutes the only legitimate *casus belli*, adding the implicit corollary that if everyone is forbidden to shoot first, no one will shoot at all.

On the surface, this seems an eminently logical piece of reductionism, and quite in keeping with allegedly traditional American values. First shot equals aggression, aggression equates to international crime; defense thus automatically acquires both legitimacy and limitation--the limitation of repelling the aggressor, but no more. All in all, a tidy little formulation in which the only relevant question becomes, 'Who started it?'

... it ignores the existence of a continuum of conflict, especially the exceedingly complex twentieth century continuum. Few modern conflicts ever exhibit such a unambiguous character. 'Who started it?' is rarely as simple a question as 'Who fired first?' Further, most contemporary conflicts exhibit a 'mixed' character: part civil war, part ideological struggle, part international (or proxy) war. In such cases, the question of who fired first may prove not only irrelevant, but also impossible to determine.

....

But the legalist paradigm does not comprise the whole of international law, and in recent years the law itself has been moving away from such artificial simplicity. Obviously, the legalist paradigm is a formulation intended for a world of well defined territorial sovereignties--nation states which, at least in theory, are obliged to respect each others' borders and

acknowledge each other's right to regulate their own internal affairs. But the world is not composed entirely of nation-states, and international law now attempts to deal with these various non-sovereign entities. Unfortunately, however, the law has itself become 'unjust,' establishing, in effect, one standard for sovereignties, and another for so-called revolutionary movements

See Philip Gold, *Evasions: The American Way of Military Service* (New York: Paragon House Publishers, 1986), pp. 15-17.

21. The use or threat of force by states is illegal and is prohibited except: "(a) Action in self-defense; (b) Action in collective self-defense or in defense of other states; (c) Action authorized by a competent international organ; (d) Where a treaty confers a right to intervene or *ad hoc* invitation or consent is given by the territorial sovereign ... ; (e) Action to terminate acts of trespass in certain circumstances; and (f) Certain special cases of necessity arising from natural catastrophe " Brownlie, *International Law*, p. 432.

22. Cyril E. Black and Richard A. Falk (eds), *The Future of the International Legal Order, Volume III, Conflict Management* (Princeton: Princeton University Press, 1971), p. 27.

23. Rights that may be protected by self-defense are: territorial integrity, political independence, freedom of navigation for its ships, protection of nationals abroad, and, perhaps, protection of a state's economic welfare. Greig, *International Law*, pp. 672-674.

Several "tests" have been articulated by Professor Derek Bowett regarding a state's resort to self-defense:

- a. The self defense must not be punitive in character.
- b. The rights being protected must be essential.
- c. The harm must be "irreparable" and "imminent."
- d. There must be no alternative means of protection.
- e. The reaction must be proportional.

See Greig, *International Law*, p. 28

24. Eugene V. Rostow, "The Legality of the International Use of Force By and From States," *The Yale Journal of International Law*, Vol 10, No. 2 (Spring 1985), p. 286

25. Reisman, "Lawful Use of Force," p. 283.

26. Richard Falk, "The Decline of Normative Restraint in International Relations," *The Yale Journal of International Law*, Vol. 10, No. 2 (Spring 1985), pp. 263-265.

27. *Ibid.*, p. 263.

28. Gordon, "Article 2(4) in Historical Context," p. 276, quoting from Remarks by Ambassador Kilpatrick to the UN Security Council, 27 October 1983, reprinted in *Department of State Bulletin* (December 1983), p. 74.

29. Reisman, "Lawful Use of Force," p. 280, quoting from A. Shevchenko, *Breaking With Moscow* (1985).

30. George P. Shultz, "Excerpts From Shultz's Speech Contrasting Communism and Democracy," *New York Times* (23 February 1985), p. A4.

31. Falk, "The Decline of Normative Restraint," p. 265.

32. Gordon, "Article 2(4) in Historical Context," p. 272, footnote 2.

33. *Ibid.*, p. 273.

34. Reisman, "Lawful Use of Force," p. 284. Professor Reisman further observes on page 282 that "[t]he basic policy of contemporary international law has been to maintain the political independence of territorial communities so that they can continue to be able to express their ongoing desire for political organization in a form appropriate to them."

35. Caspar W. Weinberger, *Report of the Secretary of Defense Caspar W. Weinberger to the Congress on the FY 1987 Budget, FY 1988 Authorization Request and FY 1987-1991 Defense Programs* (Washington, DC: U.S. Department of Defense, 5 February 1986), pp. 73-88.

CHAPTER 5

JUST WAR THINKING AND ITS CONTEMPORARY APPLICATION: THE MORAL SIGNIFICANCE OF THE WEINBERGER DOCTRINE

James Turner Johnson

MORALITY AND THE USE OF FORCE: JUST WAR TRADITION

The Weinberger Doctrine, as described in the previous chapters, did not come into existence in a moral vacuum. Besides the legal, military, and political factors it reflects, this doctrine also stands within the broad Western tradition on the moral justification of the use of force. This chapter aims at describing that tradition and exploring the relation of the Weinberger Doctrine to it.

A nation can be measured by how it thinks morally about war. Not all threats to a nation's fundamental values are military, and not all such threats ought to evoke a military response. The political judgment whether to employ military force to defend against a threat to values must also be, in part, a moral judgment, reflecting those values that are to be defended. At the same time, the decision *whether* to fight implies that further decisions need to be made about *how* to fight. Here the problem is how to defend the nation's values without engaging in acts that themselves betray those values. Thus the problem of use of military force requires thinking about *when* it is justified and also about *what uses* of military force are justified.

These are fundamental questions, and every culture possesses some body of doctrine that helps persons living within that culture to answer them. In Western culture, the relevant body of thought and practice is just war tradition. This tradition reflects the historical experience of more than two millennia; it derives from a diversity of sources, including law, military codes of conduct, and the practice of war as well as the more narrowly "moral" spheres of religion and philosophy; and it directly addresses the questions of whether and how a nation should use its military power through two subordinate branches of the larger tradition, called in classical language the *jus ad bellum* (dealing with when it is justified to resort to military force) and the *jus in bello* (treating the question of what sorts of uses of force are justified).

To recognize that there exists such a tradition does not mean that we Americans, who as a people are not particularly given to historical reflection, consciously understand either this heritage or the ways it continues to influence us. Thus, the first task of this chapter is briefly to sketch the nature of this tradition: its sources and development, the major categories around which it has coalesced, its fundamental purposes. Yet to recognize that there exists such a tradition implies that it affects the ways we think; we ought to be able to see its "tracks" in contemporary thinking about the justified use of military force. Hence the second aim of this chapter is to reveal such "tracks." In fulfilling this aim, I will first establish a context (anticipating the following chapter) by briefly discussing the relation between modern international law and just war theory as classically conceived; then, more fully, I will examine U.S. policy on the commitment of American military forces as expressed in the Weinberger Doctrine.

If we did not have a tradition on the moral parameters of the use of force in statecraft, we would have to invent it. This is what some contemporary theorists have done. An example--though not the worst, by any means--is Stanley Hoffmann in *Duties Beyond Borders*, when he identifies

the "just war" idea with the Middle Ages and argues that "a new 'just war' theory" is needed.¹ Hoffmann devotes several pages to outlining the main features of such a "new theory," recapitulating the categories and much of the content of the old. Indeed, his entire chapter on "The Use of Force" is guided by the sort of reasoning that follows from just war tradition. There is, in fact, no need to reinvent such a tradition; we have it already as part of our historical inheritance from Western culture. Supposed "new 'just war' theories" like Hoffmann's are actually better seen as yet more evidence of the continuity of the ways of thinking found in this broad tradition existing over time.

Nonetheless, I would argue, we lose something when we relegate the historical parts of this tradition to a sealed-off portion of our past and designate them meaningless. The historical depth of just war tradition is a strength, not a weakness, for it broadens our available circle of advisers to include not only those persons alive now and their limited historical experience but also those who have significantly contributed to the development of this tradition over its long history, together with their own reflection on the experience of statecraft and the use of military force for protecting the values of the political community.

Church historian Roland Bainton, in his classic *Christian Attitudes Toward War and Peace*, identified three historical positions taken by Christians on war: pacifism, just war, and holy war.² These are, in fact, more than a statement of the historical options taken by Christians; they reveal the spectrum of choices available to anyone at any time who thinks about the moral justification of the use of force. "Holy war," in secular terms, is any use of force in the service of transcendent ideological claims. Since the cause transcends all merely human values, there can be in principle no limit on what may be done to those who oppose this cause. Whereas just war theory distinguishes combatants from noncombatants and seeks to prevent direct, intentional acts of force toward the latter, for the holy warrior all who do not share his ideological commitments

are by definition enemies, and the combatant-noncombatant distinction vanishes. The acts and attitudes of religiously-motivated terrorists provide a striking contemporary example of what is wrong with this way of thinking about the justification of the use of force. More broadly, any "crusade" mentality injected into military policy tends to override any moral qualms about the justifiability of the use of force or concerns over the proper level of force to be used in supporting the national interest. In the "holy war" position, then, the resort to force becomes an easy step, and the limits to force evaporate. All killing of one's ideological enemies is justified here; "holy war" pushes towards an extreme of total war.

At the other end of the spectrum from holy war lies the position which makes resort to force itself the worst evil, and by contrast peace, at whatever material price, the greatest good. On this position of pure pacifism, according to which the use of force is never morally justifiable, it makes no sense to apply moral analysis to the means of force, for efforts to achieve relative limits there fade into insignificance under the more general moral ban on all resort to force. Oddly, then, in rejecting all use of force pacifism can, in principle, make no distinction between the killing of innocents in death camps or the murder of hostages by terrorists and the deaths of enemy combatants in a war fought to repel invasion. There is also, in principle, no reason for a pure pacifist to differentiate morally among weapons or means of using them: whereas a just war theorist would distinguish between bombing a tank factory in wartime and intentionally bombing hospitals, schools, and homes, at the extreme of pure pacifism the reasons for such a distinction simply do not exist.

The irony, then, is that the spectrum is not linear but circular: at their extremes, neither the pacifist nor the crusader is really concerned about the hard questions of whether and how to use force in the service of statecraft. They do not, in fact, provide *political* guidance at all, in the proper sense of politics. Thus, persons who are charged

with taking these hard questions into account in formulating or interpreting military policy have all the more reason to take just war tradition seriously. A current slogan in some circles is that it is time to "go beyond the just war tradition." Given the available options, however, this can never be a genuine choice for persons engaged in statecraft.

Just war tradition is of Western origin, and most of its historical development has been within Western culture, though one of the major contemporary expressions of this tradition is international law. The question may be fairly put, then, whether and to what extent societies that have not shared in this culture may be expected to abide by the standards of this tradition, or indeed, by their own lights, ought to do so. What about Soviet society, for example, or radical terrorists in the Middle East? Several levels of response to this question may be made. First, the idea that the use of force in the service of political values needs to be morally justified and needs to be conducted with respect of moral limits is not unique to Western culture. A great part of what is wrong with terrorism is that it violates *all* common human standards of justice when, as is typical, it focuses on the innocent and the defenseless as its targets. Second, insofar as states have accepted the provisions of the international law of war, they are bound no less than are Western states to its requirements, whatever their own cultural backgrounds. These observations have to do with societies that do not share in the Western cultural heritage. Third, though, we who do share in it must seek to live up to the values it has bequeathed to us, which define our moral and political identity, whatever our enemies may do. Just war tradition has to do with the moral justification of the defense of our values, and among the values to be defended are precisely those which require that the use of force be morally justified and that justified force must observe certain limits. It does neither our nation's cause nor our moral identity any good if we act so as to sell out such values while ostensibly fighting to protect them.

As I will argue more fully below, the Weinberger Doctrine provides a clear and persuasive contemporary example of just war thinking. I mean this claim in the following senses: first, that the categories of thought employed by former Secretary Weinberger in his "six conditions for committing United States military forces" correspond directly with major categories that have coalesced in historical just war tradition; and second, that the content former Secretary Weinberger gave to his six conditions is consistent with the content of just war tradition. Such continuity means more than a connection to a history of moral thought on war; it is also a connection to the main line of Western tradition on the proper place of force in the service of political ends, as well as a link to the consensus of nations expressed in international law. This is so because just war tradition, as it has developed over history, is rooted in all of these and, in turn, has taken particular shape in all these ways. Thus the immediate task before us is to examine the nature of the just war idea through its historical sources and development.

THE MAJOR IDEAS IN JUST WAR THEORY

Just war theory deals with two related but distinct questions: when is the use of force justified, and what limits, if any, should be set on the justified use of force? As noted earlier, these have come to be designated respectively by the Latin terms *jus ad bellum* (literally, rightness or justice in going to war) and *jus in bello* (rightness or justice in prosecuting war). Each of these is further broken down as shown on the accompanying chart (Figure 1). The seven *jus ad bellum* categories and the two that define the *jus in bello* provide a convenient checklist by which to judge any existing or prospective use of military force.³

We today are able to employ these categories as guides to moral judgment only because we look back upon a long history of development in the moral consensus the just war tradition represents. The various just war criteria

jus ad bellum

Just Cause

- the protection and preservation of value

Right Authority

- the person or body authorizing the war must be a responsible representative of a sovereign political body

Right Intention

- the intent must be in accord with the cause and not territorial aggrandizement, bullying, etc.

Proportionality of Ends

- the overall good achieved by the war must not be outweighed by the harm it produces

Last Resort

- no other means of settling the matter in question will work

Reasonable Hope of Success

- no imprudent gambling with military force

The Aim of Peace

- among the ends for which a war is fought should be the establishment of international stability and peace

jus in bello

Proportionality of Means

- means causing gratuitous or otherwise unnecessary harm should be avoided

Discrimination/Noncombatant Immunity

- protection of noncombatants from direct and intentional harm

Figure 1. Just War Criteria.

did not all suddenly spring into existence in the mind of some brilliant theorist; rather, they gradually evolved out of reflection on the experience of warfare and statecraft over many centuries. Theorists, indeed, have aided the development of the tradition of just war by amplifying the understanding of particular ideas as well as by introducing new ones. Yet the tradition expressed theoretically in the nine categories of the *jus ad bellum* and *jus in bello* is much more than an intellectual construct; properly conceived, it is the statement of a broad cultural consensus on the justification of force for the defense of values. Let us now examine this tradition over several stages of its historical evolution.

While the deep roots of just war tradition extend into Greek and Roman antiquity and into Hebraic history reflected in the Old Testament, for our purposes it is sufficient to note that by the end of the classical period, the third and fourth centuries of the Christian era, several of the major categories of limitation were already in place. The Romans defined and utilized a concept of just cause for the use of force to defend against attack, to retake something lost, and to punish evil. The just war concepts of right authority and proportionality also trace to the Romans.⁴ The major contributions of Christian thought at this stage were Augustine's idea of intentionality as defined in Figure 1, the recognition that Roman society possesses goods that deserved to be protected even by war against its enemies (Clement of Alexandria in the second century provides the first evidence of this view; it is central to the thought on war of Ambrose and Augustine), and the argument that there are times when Christian duty impels Christians to participate in war to protect their neighbors in the state (originating with Ambrose in the fourth century).

It is now conventional among theologians to trace the beginnings of Christian just war thought to Augustine and, sometimes, one step further to his mentor Ambrose.⁵ This is both too early and too late, whether we are thinking of the specifically Christian contribution to just war theory or

of the broader contributions of nonreligious sectors of society. It is too late, in that along with their original contributions Ambrose and Augustine also utilized Hebraic conceptions of morality and war (drawn from the Old Testament) and likewise took over into their moral thought on war several ideas already present in Roman culture. It is too early, in that a full theory of just war focused on the nine categories of *jus ad bellum* and *jus in bello* did not, in fact, develop until the late Middle Ages. As already noted earlier, though, to focus on the theories must not lead us to forget the broader cultural movements that provide the context out of which the theorists have come. As this was true of just war thinking in the late classical era, so it was also true of medieval just war thought. The full theory of just war which developed in the Middle Ages represented a cultural consensus gathered together by theorists, not a theoretical construct imposed arbitrarily on the social structures of the age.

Various steps along the way to this full theory might be mentioned. Neither Augustine nor the Roman state had a concept of noncombatant immunity, for example. Grotius comments on the classical period that because the winner in war has the power of life and death over the conquered, to enslave the latter instead of killing them is a step in the direction of humanity.⁶ Such was, of course, the practice of the Roman legions. To find the origins of the idea of noncombatant immunity, which is a major component in contemporary thought about the moral limits to the use of force, we need to take note of the 10th century Peace of God movement. This was an effort, centered in the churches, to achieve protection both for ecclesiastics and for peasants who were the regular prey of lawless bands of men-at-arms.⁷ Two centuries later, though, when the Church's canon law declared protection for bishops, priests, monks, nuns, and pilgrims, the earlier concern for the protection of peasants had been temporarily forgotten.⁸ Canon law, not theology, was the principal channel through which the Church's specific contribution to just war thought developed, and it was almost entirely focused on problems of the *jus ad bellum*. Here the efforts of the

canonists interacted with those of theorists of the secular law and also with the interests of a broad spectrum of persons within the feudal political structure. Out of this alliance came a new consensus on "right authority" aimed at eliminating private wars, feuds and outright banditry by restricting the right to use arms to the highest feudal authorities. (Feudal society had its own problems with insurgencies and terrorism, and this was one level of its response.) Noncombatant immunity, however, is an aspect of the *jus in bello*, and the major medieval contribution to this was made by the professional soldiers of the era, the warrior class of knights, through the code of chivalry. Whereas the canonists sought at first only to protect ecclesiastics from harm in war, chivalry defined all nonknights as, in principle, noncombatants (though such persons could lose their status by bearing arms or otherwise functioning in support of combatants).⁹

The various strands of *jus ad bellum* and *jus in bello* began to be treated as a common cultural consensus in the first half of the 14th century, though development continued through the era of the Hundred Years War. By the end of this conflict--that is to say, by the last half of the 15th century--all the major categories of just war theory were in place, and all had a content that had been shaped by the interaction of such varied cultural forces as I have mentioned. To some extent this content was historically bound; yet it remains surprisingly relevant and consistent through subsequent centuries. Later I will explore this relevancy and consistency by a comparison with the law of war of modern international law.

The late Middle Ages saw just war tradition established as a statement of cultural consensus on resort to war and the restraints to be observed in war. There is no space here to follow the development of this tradition in detail through the subsequent centuries to our own time. In lieu of this I will comment on the major changes that occurred in each succeeding historical period.

This was an era of great changes in Western society and also in the face of war. The inherited just war tradition was, on the theoretical level, first further consolidated (the work of theorists like the Spanish schoolmen Franciscus de Victoria and Francisco Suarez), then transformed into a theory of international law based solely on natural law and the practices of states (the work of writers like Gentili, Grotius, and later Vattel).¹⁰ From Victoria to Grotius is roughly a hundred years, from the mid-16th to the mid-17th century. This was an age in which the discovery of the New World had made Europeans aware of the need to expand their conceptions of natural law, and it was also the age of the dissolution of the unity that had been Christendom as a result of the reformation and the heightened rivalry of dynastic states: these new facts required a rethinking of international law. On the military front, war became in this period a much more deadly affair, with firearms replacing swords, arrows, and lances. At the same time, armies underwent a social transformation. Already by the 16th century, men of the knightly class were a minority in large armies: their roles were limited to those of commanders and members of elite cavalry units. The mass of soldiers were drawn from the lower classes and, increasingly, armed with firearms.¹¹ This social transformation of armies necessitated a change in the way they were disciplined. No longer could the code of chivalry be internalized by every soldier over years of training from childhood; now there appeared books of military discipline in which the rudiments of chivalric behavior (also just war behavior) were boiled down to the levels of prohibitions and permissions, attached to sanctions and punishments, and promulgated to the common soldiers as a system of regulations by their superiors.¹²

The new rules and conceptions took hold after the end of the Thirty Years War and held throughout the rest of the 17th and 18th centuries. In the 18th century a prominent result was the universal practice of limited warfare (called by J. F. C. Fuller "sovereigns' wars"),¹³ war limited by its goals, its methods, and the numbers of people involved in it, as well as by a strictly imposed military discipline on the

combatants. This development of limited war is an important contribution within the parameters of the broader moral tradition on war in Western culture. Vattel, writing during the 18th century,¹⁴ best reflects on the theoretical level those developments that took place within just war tradition on both the theoretical and practical levels during the two previous centuries.

Two distinguishing features are paramount in the development of just war tradition during this period from the 16th to the 18th centuries. First is the establishment of just war concepts of justification and limitation on a natural law base. This made it in principle something more than the consensus of a particular culture, and thus incorporation of the attitudes of other cultures became possible. Only with this establishment of a natural law base was just war tradition able to give birth to international law. An immediate benefit in the early 17th century, at the end of the era of bloody Catholic-Protestant religious strife, was that thinking in terms of natural law made it possible to bracket out of consideration all religious-ideological justifications for war and for excesses in war. This has been a characteristic of the law of war in international law ever since.

The second distinguishing feature of just war tradition in this period is the clear shift in emphasis within the categories of the tradition itself. In the Middle Ages *jus ad bellum* and *jus in bello* were held in balance; yet beginning with Grotius' *The Law of War and Peace*, first published in 1625, the *jus ad bellum* was deemphasized. His purpose was to make the resort to war something dependent on the structures of international relationships, not something that depended on the attitudes of princes. In context, this was an effort to remove ideological justifications as a legitimate cause for resort to force. Yet it meant that Grotius had to truncate the *jus ad bellum* he had inherited, in particular downplaying the criterion of "just cause." Subsequent international law has followed this lead, as we shall see below. Corresponding to this deemphasis on the *jus ad bellum* came a new emphasis on efforts to set *in bello*

limits. In the 18th century "sovereigns' wars" we may view the results: wars were frequent (as might be expected with a weakened set of cultural constraints on resort to war) but limited (as could be expected with a new stress on *jus in bello* restraints). Much of the increased attention to *in bello* limits came out of practical military experience, not the theorizing of moralists and jurists. Yet Vattel, a representative of the latter categories, added an important new theoretical concept to the *jus in bello*: the idea of humanity. "Let us never forget," he wrote in his *Law of Nations*, "that our enemies are men."¹⁵ This ideal of humanity in warfare has become a central foundation-stone in modern legal castings of the *jus in bello* like the Geneva Conventions and in the work of theorists like Myres McDougal, for whom the law of war is the result of "compromises between military necessity and humanitarianism."¹⁶

Some of what might be said here will be treated later in my comparison of just war theory in its classic (that is to say, its late medieval) form with international law. The major thing to say about Western moral tradition on war in the 19th and 20th centuries is that this tradition has been carried and developed through most of this period almost entirely by two vehicles: international law and military manuals on proper conduct in war. Historical research began to be done into the moral bases of just war thinking in the period between the two world wars, but the recovery of just war tradition as a source for normative analysis by theologians and philosophers is mainly a phenomenon of the post-World War II period.¹⁷

The influence of the military manuals and international law has, indeed, often overlapped: the first military manual of the new type, the United States Army's *General Orders No. 100* of 1863, composed primarily by the international lawyer Francis Lieber, had an immense effect on subsequent efforts to codify the law of war in international law; going the other way, contemporary military manuals on the law of war closely reflect the state of the *jus in bello* of international law.

The contemporary recovery of just war tradition as a specific tool for moral analysis is often identified as beginning with Paul Ramsey's *War and the Christian Conscience* in 1961. Of course there were earlier and other contemporaneous efforts, and Ramsey acknowledged them; yet his thorough, reasoned approach to recapturing the essence of just war theory in Augustine and Thomas Aquinas, then applying what he had learned to the moral dilemmas of the nuclear age was so different from what was being done in the main line of religious ethics, both Catholic and Protestant, that it had an enormous impact. Indeed, though Ramsey was a Protestant, his writings on Catholic documents on war from this period helped to give them a broader impact among American intellectuals than they would likely have had otherwise. In this sense Ramsey was also heavily responsible for the recovery of interest in just war thought among American Catholics. By the present time, of course, the recovery has spread still further, embracing philosophers and theorists of government as well. It is impossible briefly to characterize the entirety of this new theorizing except to say that there is unity in acceptance of the principle that just war thinking is as applicable to contemporary conflicts as it was to conflicts during past ages. To make the application, however, has required still further development in the major categories through which the tradition is expressed, while maintaining continuity with earlier just war thought.¹⁶

The point of this brief historical sketch of the sources and development of just war tradition has been to undergird two general observations about this tradition on war's justification and its restraint. First, it is a tradition that has come into being out of a wide variety of sources across the whole breadth of Western culture. Rather than being a narrowly moralistic set of rules imposed by, for example, the Church upon the sphere of warfare conceived as alien to the genuinely moral life, this tradition reflects a general understanding that the use of military force, however regrettable or destructive it may be, is nonetheless an integral element in the life of political communities and that resort to such force may be, under some circumstances,

a duty to protect and preserve the values of that community. Rather than being narrowly moralistic, this tradition is *moral* in a much broader sense, the sense in which it reflects the highest moral and other values of Western culture as interpreted by institutions and persons across the breadth of that culture.

Second, just war tradition has not been static, as some interpreters (e.g., Hoffmann in the book cited above) have argued; rather, it has developed along with the institutions and conceptions of society and along with changes in the face of war itself. Rather than viewing each new stage in this tradition as disconnected from the past, far more is to be gained by understanding the lines of connection that run throughout the history of the development of just war tradition. Only then, for example, can we discern the importance of the military input into the historical tradition of restraint; only then can we see the relation between secular international law and religious theories of justification of force and right authority to use force.

Taken as a whole, just war tradition provides the categories through which we in Western culture normally think about morality in war. The history sketched above helps us to see both that this is so and why it is so. For these are not categories hatched in an arid theoretical landscape; rather, they represent the distillation of a wide base of moral reflection on experience of statecraft, the goods of the political community, and the place of military force in protecting and preserving those goods. Thus it is in a fundamental sense meaningless to talk about the relevance or irrelevance of this mode of thinking about military force today; the tradition simply is, and the question of relevance is actually only one of whether we are reflective enough to deal creatively with the wealth of experience and thought it represents.

CLASSIC JUST WAR CRITERIA AND INTERNATIONAL LAW: A COMPARISON

One of the major carriers of just war tradition in the modern era has been international law; yet it has not carried all portions of the broader tradition equally well, and in certain respects modern positive international law truncates that tradition in morally questionable ways. This section briefly explores this relation. My purpose is, on the one hand, to demonstrate just how centrally international law bears the stamp of the broader just war tradition, and on the other hand, to use that broader tradition to show where contemporary international law falls short in what it says about the legitimacy of use of military force and the limits on that use.

On reflection, it can be seen clearly that the categories of international law fall comfortably within the categories of the broader just war tradition. Historically, the terms *jus ad bellum* and *jus in bello* are, in fact, international law terms, despite the Latin that makes them sound medieval and ecclesiastical. By the "classic form" of just war tradition I mean the form it had by the end of the Middle Ages and the beginning of the modern period, after the medieval coalescence out of various formative sources had been completed. The term "international law" employed in this section and elsewhere refers to the law of war in present-day international law.¹⁹ Because of the limitations of the context of this chapter, I will comment here only on two categories from the *jus ad bellum* and the two making up the *jus in bello*.

First, on the matter of *just cause* the difference between classic just war tradition and contemporary international law is striking. The latter limits resort to force to self-defense or regional self-defense against armed attack; the conception of justifying causes in the former is much broader. The point of noting this difference is that it matters morally as well as politically. Unless there is some acceptance of preemption against an attack that is being prepared but not yet launched, the defender is always at

a disadvantage relative to the aggressor. Unless there is acceptance of the right of a political community to retake something--for example, a piece of territory--wrongly taken by another, there is implicitly no restraint against a predator who is prepared to annex territory by *Blitzkrieg* and then announce he is ready to negotiate. Unless there is some provision recognizing the legitimacy in principle of the use of force to restrain or punish a government which, for example, engages in massive violations of the rights of its citizens, there is only limited leverage available to be used to cause that government to change its ways.

Now, saying these things does not mean that it would in all cases one might propose be *prudent* to resort to military force. The wisdom of such resort is another sort of question. Here I am concerned only with whether there might be a just cause for use of force in such cases, and my argument is that, in moral terms, this remains a possibility--contrary to the language of Articles 2 and 51 of the United Nations Charter, the central statement of the *jus ad bellum* of contemporary international law. In practical terms, for example, this means that I argue for the justice of the Israeli first strike in the 1967 war as genuinely preemptive, though it was technically the *first* resort to force, and that I accept the justice of the British action to retake the Falkland Islands from Argentina though by the time British naval forces arrived on the scene the Argentine military seizure of the Falklands had been completed.

The second *jus ad bellum* category to which I will draw attention is that of *last resort*. Beginning with the League of Nations Covenant, continuing through the 1928 Pact of Paris (the Kellogg-Briand Pact), and present in the United Nations Charter is an emphasis on arbitration as opposed to use of force for settlement of international disputes. Now, seen as an effort to limit recourse to military force on the pretext of relatively minor disputes that might be amenable to arbitration, this is a good step. Yet together with a general bias that prefers peace under almost any circumstances to the initiation of military force to change bad circumstances in the direction of a better peace, and

together with a bias against any nation that first uses force in a dispute, this rendering of the category of last resort in international law tends to limit the law abiding while placing no real constraints on those who, in final analysis, can use the process of arbitration as a means of jockeying for favorable position preparatory to the use of force. In fact the category of last resort in just war tradition imposes a *logical* requirement, not a *chronological* one. The difficulty with 20th century international law on this point is that it makes the criterion *chronological*. Again, as with the category of just cause, simple prudence dictates that no nation should resort to military force in every circumstance these reflections might seem to legitimate. But my point is that the law in both these cases is somewhat narrower than what morality, as expressed in the broader tradition and reflected in the classic form of that tradition, requires. The question then is whether international law, as a principal vehicle of that tradition in the 19th and 20th centuries, sets new, narrower standards for what is *morally* permissible. I think not, and for this reason the above comments go in the opposite direction, offering a critique of international law from the perspective of the moral wisdom contained in the larger tradition.

Turning to the *jus in bello*, the first point to note is that the category of *proportionality* is not very completely expressed in international law. What we find under this rubric is, basically, efforts to limit or rule out the use of certain kinds of weapons in conflicts among nations. In the first place, this has an arbitrary character: why is gas warfare condemned, for example, while other kinds of weapons that may be equally or more destructive in actual use are not ruled out? There are, of course, historical answers to such questions, but the logical point still remains. Why single out gas and not radiation weapons, for example? Looking the other direction, since there are uses of incapacitating gas in warfare that would be less destructive than use of blast-effect weapons to achieve the same military objective, why rule out use of such gas in warfare at all?²⁰ In the second place, the weapons-limitation approach suggests that what is wrong is the

weapons of war and not the intentions and purposes behind their use or the modes in which they are used. Third, the idea of proportionality of means is far from adequately rendered by this legal approach stressing controls on certain kinds of weapons. One must make moral choices about the degree of force to employ even when using only permitted types of weapons. Restraints aimed at weapons tend to produce a false sense of having done something concrete to curb the destructiveness of war, while equal or greater destruction remains possible as the result of disproportionate use of weapons on the use of which international law says nothing.²¹

On *noncombatant immunity* one finds a great deal in international law. This is the arena of the Geneva Conventions, and they have provided a broad nexus of categories defining who may and may not legitimately be harmed in war and the kinds of treatment to be accorded to various classes of persons. As compared to classic just war tradition on noncombatancy, this is far more explicit, similarly broad-ranging in terms of classes of people treated, and perhaps more able to be brought to bear in practice because of its specificity and the weight of its reputation. But a new element has entered the scope of vision because of the massive destructive potential of contemporary weapons, including some forms and uses of conventional weapons as well as large nuclear warheads. That element is the injury that noncombatants will foreseeably receive because of their proximity to a legitimate military target. The depth of this problem today, as compared to earlier periods, is one of degree, not of kind; yet the change in degree is of great magnitude. It is right that it rings hollow to seek to justify the fire bombing of Dresden on the basis of the military significance of the rail junction there, or to assert that noncombatants are not directly targeted by strategic missiles in a population center that includes numerous military targets for those missiles, or to assert of a Vietnamese village, "We had to destroy it in order to save it." The traditional conception of discrimination causes us to question such easy justification of the indiscriminate destructive powers

available in 20th century warfare and, beyond this, to seek to define uses of the means available that are more discriminating and, even beyond this, to seek to put into use weapons whose military effectiveness cannot be doubted but whose discriminating capability is greater than what is now at hand. (I think, for example, of fractional megatonnage nuclear warheads on low CEP delivery vehicles.) These are directions of reflection toward which the broader moral tradition of just war points our thought; compared to this, international law on the protection of noncombatants remains mired in the status quo of the last major round of warfare.

THE WEINBERGER DOCTRINE: A CONTEMPORARY EXAMPLE OF JUST WAR THINKING

In Figures 2 and 3, using the categories of just war tradition defined above, I summarize the positions of former Defense Secretary Weinberger and Secretary of State Shultz in their debate over the proper role of the use of military force in securing the policy ends of the United States in the world.²² A close comparison of the positions of these two high government officials, either by these summaries or through the speeches from which the summaries have been taken, would I believe show more similarity between them than the stark differences highlighted in press reports would lead one to expect. Yet my purpose here is not to enter into that comparative effort. Rather, by summarizing the positions of these two officials I want first to illustrate what I have claimed, both directly and indirectly, above: that we today, when required to think about morality and the use of force, tend to think in the categories provided by just war tradition, the major moral tradition on war in Western culture; and that the content of such contemporary thinking will also reflect (whether more or less well) the content of that larger tradition. These points are, I think, made in the summaries themselves.

Weinberger

Just Cause

1. When vital to defense of national or allied interests

Reasonable Hope of Success

2. With intention of winning
 - sole object of winning
 - forces and resources sufficient to achieve objectives, or not at all

Right Intention

3. For clearly defined political and military objectives
 - determine objectives
 - decide strategy

Proportionality

4. With correlation between objectives and forces
 - if national interests require us to fight, then we must win
 - assess and adjust force size and composition as necessary

Fight Authority

5. With public/congressional concurrence
 - commit American public before American forces
 - cannot fight at home and on the battlefield

Last Resort

6. As last resort
 - only when other means have failed or have no prospect for success
 - military force is not a substitute for diplomacy

End of Peace

Not explicitly stated but implicit in 1 and 6

Figure 2. Six Conditions for Committing
U.S. Military Forces.

Shultz

Just Cause

1. "To further the cause of freedom and enhance international security and stability"

Reasonable Hope of Success

2. Not treated explicitly: seems to be assumed. Shultz speaks instead of the need to have moral courage "to act in difficult situations"

Right Intention

3. "The use of power is legitimate

- *Not* when it crushes the human spirit and tramples human freedom, but when it can help liberate a people or support the yearning for freedom;

- *Not* when it imposes an alien will on an unwilling people, but when it's aim is to bring peace or to support peaceful processes; when it prevents others from abusing *their* power through aggression or oppression; and

- *Not* when it is applied unsparingly, without care or concern for innocent life, but when it is applied with the greatest efforts to avoid unnecessary casualties and with a conscience troubled by the pain unavoidably inflicted"

Proportionality

4. Use of military force to deter aggression or oppression may avoid "The awful necessity of using far greater force later on"--example of Hitler

Right Authority

5. President has such authority; when exercised rightly, people and Congress will support it (case of Grenada cited)

Last Resort

6. Reluctance to use force is "the mark of our decency. And clearly the use of force must always be a last resort"

End of Peace

7. "We will be a true champion of freedom and bulwark of peace"

Figure 3. The Legitimate Use of Power.

Second, and to the specific purpose of this section of the present essay, I propose to analyze the Weinberger Doctrine--his "six conditions for committing United States military forces"--as I have already analyzed contemporary international law on war. Where are the strengths of this doctrine, and where are its weaknesses, as compared to the broader tradition on just war?

The first point to note is that the Weinberger Doctrine is a statement of position on the *jus ad bellum* almost entirely; it does not deal directly with *jus in bello* issues at all. This means that the Weinberger Doctrine has principally to do with the practice of statecraft and bears on military matters only secondarily, insofar as military planning must be done within the parameters set by policies made at higher levels. While the concept of proportionality, as addressed in both Weinberger's items 2 and 4, has some bearing on the conduct of a military action once begun, the first and main referent is to what I called above "proportionality of ends"; that is to say, the concern that the total good expected to be produced by the military action in question not be outweighed by the evil done.

I am not inclined to make much of this omission of treatment of the *jus in bello*. In the first place, former Secretary Weinberger was not trying to give a systematic statement of the whole breadth of issues relating to the use of force, the how as well as the whether; he was speaking only to the question of the decision whether to commit U.S. forces--a *jus ad bellum* issue. Second, there is already a considerable body of policy and doctrine having to do with the conduct of U.S. forces in time of war; specific rules of engagement in any projected use of force would be expected to reflect this, as they have in the past. Third, the practice of statecraft (in which former Secretary Weinberger was engaged as a Cabinet member and civilian head of the Department of Defense) has to do principally with *jus ad bellum* issues, while *jus in bello* matters are more, if not exclusively, the province of uniformed military personnel.

Now let us turn to former Secretary Weinberger's "six conditions," correlating them with the categories of the just war tradition's *jus ad bellum*. Weinberger's conception of *just cause* is far more elastic than the international law conception, and at first look it is also more elastic than allowed in classic just war theory. Yet unless one defines "national or allied interest" ideologically (in which case the door is, in principle, opened to any and all uses of force), any realistic appraisal of the requirements of such interest sets real boundaries around the idea of justified use of force as that which is "vital to the defense of national or allied interests." Looked at in this light, Weinberger's statement looks more like the classic form of the just cause idea. Yet his formulation still remains in principle elastic, and for that reason care ought to be taken to make sure that debate over "national or allied interests" does not cast the net of those interests beyond those implied by the classic just cause triad: defense of self or of others against attack, retaking of something wrongly taken by force, and punishment of concrete wrongs done by an evil power. These are already fairly elastic guidelines; to stretch them still further would be to take away any restraining power they possess.

Reasonable hope of success appears in second place in Weinberger's list of "conditions." From the just war perspective there may be, at the extreme, times when the duty to respond with force to threats against fundamental values may imply fighting even when there is no clear hope of success. Short of those extreme cases, though, the concept of "hope of success" implies fighting to win--that is, being successful in the defense of the values at stake. But winning does not equate to the total overwhelming of the enemy; it may only imply a restoration of the *status quo antebellum*. Thus the idea of success is logically linked to the purposes for which the force is committed and the calculus of proportionality which relates the goods protected against the evil the use of military force might bring.

Right intention is, in the tradition, the only specifically moral (in the narrow sense) *jus ad bellum* category. There is no such category in the international law *jus ad bellum*. Thus it is striking to find it here, even in a truncated form and so closely related to the criterion of proportionality. (But compare Shultz's more elaborate and morally sensitive statement on this point; see Figure 3.) Weinberger's point seems to be that the use of military force should not be undertaken casually and in an open-ended manner; this correlates to Augustine's condemnation of "an unruly and implacable animosity" and the "lust of domination." But even apart from such correlation, it is an important element of right intention in moral thought generally that the agent think through the reasons for his projected action, the appropriate means, and the desired ends. This seems to be the point of Weinberger's third condition.

The former Defense Secretary's fourth condition takes this a step further and is a direct statement of the goal of *proportionality of ends*, with a bit of *proportionality of means* included as well. The importance of winning is reasserted, and on this two caveats should be entered. First, the objectives of the use of force should have already been decided in terms of the proper understanding of just cause as discussed above. This means avoidance of elastic, vague statements of "national interest" and attention only to real interests. As I read former Secretary Weinberger's position, this is what he too would argue. Second, "winning," as noted above, may mean different things in different contexts: total victory in one sort of case, but only removal of a specific threat in another.

As to the adjustment of force size and composition, this is the heart of the proportionality calculation. The paradigm of just war theory on the level of practice is one or another form of limited war, in which levels and types of force are directly correlated to the purposes for which they are used. So far as *jus ad bellum* considerations are concerned, this means considering beforehand how to gain the desired ends (as specified by applying the idea of just cause) by

using the least destructive forms of force that are able to achieve those ends. This, I think, is what Weinberger had in mind here. Yet further adjustment of force size and composition *in bello* may be necessary, because it is notoriously hard to see accurately into the future. The moral concern here would be to keep newly adjusted levels and types of force within the parameters set by the justifying causes, as well as to be open to the reduction of total force, not just its potential increase, as that is made possible.

Weinberger's statement on *right authority* should stand as paradigmatic for any liberal democratic political community. In such a community, of which the United States is a prime example, the nation's military forces are, as Weinberger notes, a direct extension of its people. To commit the military without popular concurrence in that commitment is to court disaster. His language here is quite restrictive: the public commitment must come first, then the military commitment. Here is, I think, one of the points at which he most clearly differs from Shultz: compare Shultz's argument that the President has the authority to commit U.S. military forces, and that when he uses this authority rightly, public support will follow. Shultz's formulation fits more closely the monarchical model of past ages or the model of the "imperial presidency" in our own; Weinberger's on this point is more reflective of the kind of political theory on which the modern liberal democratic states of the West are historically based.

Weinberger's sixth condition is that commitment of military force be a *last resort*. This too follows closely the contours of just war tradition, in both its classic and its international law forms. His formulation, "only when other means have failed or have no prospect for success," recognizes the validity of both the chronological and the logical conceptions of last resort. One is not required to wait until the final failure of all conceivable "other means" has been achieved, as the international law emphasis on arbitration seems to imply and as much contemporary "peacemaking" rhetoric suggests. Rather the point is that

it must be clear that such means have no hope of success, while the values at stake ultimately warrant defense by force. As noted above, the classic criterion of last resort was meant fundamentally to discourage military adventurism; this Weinberger underscores by noting that "military force is not a substitute for diplomacy."

Finally, there is no explicit statement of *the end of peace* in these "six conditions," but that end is implicit in conditions number 1 and 6. As I have argued earlier, what this criterion means in just war tradition broadly understood is that among the values for whose protection and preservation military force is employed must be the value of peace. This is, at least as I understand them, one of the principal values of Western societies, and any proper statement of "national or allied interests" must take it into account.

THE "SIX CONDITIONS" IN CONTEMPORARY CONTEXT

No public official delivers himself of anything like former Secretary Weinberger's "six conditions" in the absence of historical context. In this particular case the context was provided, on the one hand, by debate over how to respond to terrorist threats and activity aimed at this country and, on the other hand, by debate over the U.S. military presence in Central America. While the "six conditions" are stated broadly enough to have application well beyond the specific issues raised in these two debates, nonetheless the particular context they define suggests a number of further observations.

I have earlier argued that just war tradition has to do with the practice of statecraft generally conceived, and not only narrowly with questions of resort to force. The Weinberger Doctrine clearly has to do with the resort to military force; yet it also has implications that go beyond this (as narrowly conceived) into deeper dimensions of American policy and conduct. Thinking in terms of the role

of military force within statecraft, we may read in the Weinberger Doctrine an awareness that greater benefits may sometimes be had by maintaining a force in being than by actually involving it in a shooting war.

Where the fight against terrorism is concerned, it is not at all clear that military forces trained and equipped for war against similar forces can actually be effective in shutting down terrorist activity. So many constraints, *de facto* and *de jure*, limit the use of American military forces in the effort to stamp out terrorism that policymakers ought to be cautious indeed about how they involve such forces in this struggle. Indeed, more may be lost than gained, as in the *debacle* of the Marine peacekeeping force in Beirut. Here lives were lost, but more: the prestige of the American military also suffered great damage. Such loss of prestige, whenever it occurs, always diminishes the effect of the force in being for a perceptible period in the future. I am not particularly enamored of former Secretary Weinberger's use of the language of "winning," because it suggests a kind of clarity that is not often had in international relations and in any case is hard to interpret for the cases of terrorism and the opposition to Central American communism. Yet it reminds us that, at the very least, American military forces ought not to be committed to a task they are not trained or equipped to do and likely not to be able to perform, or to perform well. The *perception* of being a "loser" is often what matters in diplomacy, as in other aspects of human relations.

To my mind, there should be no hesitancy in saying this country has "just cause" against terrorist groups or against other states that utilize such groups in the service of their own interests against the United States and its friends and allies. Yet the lesson of the *jus ad bellum* of just war tradition is that just cause alone is never enough to justify initiating what would be, in conventional language, a war. The Weinberger Doctrine recognizes this, cautioning restraint in the commitment of American military forces in such a struggle. Former Secretary Weinberger, as I observed above, has taken seriously the concern that such

commitment of forces be a "last resort." Some of my fellow theological ethicists extend this idea of "last resort" so far that military force may *never* be employed; rather, creative diplomacy and compromise are to take its place. Yet it is not explained why compromise is an appropriate response to aggression against innocent individuals, as is typical of terrorism, or how diplomacy can succeed between nations without the mailed fist of a military threat behind it, as has ever been true of the politics of international affairs. The caution of the Weinberger Doctrine should be read as a reminder that a force in being is necessary for diplomacy to succeed; yet simultaneously, diplomacy must take seriously that it may succeed or fail depending not only on the creativity of diplomats but also, and more fundamentally, on the readiness and ability of this country to support its interests by military force when necessary. Where both Central America and Middle Eastern terrorism are concerned, this may imply that present commitment of American military forces in an active role in armed conflict is unwise; yet it also implies that this nation's leadership must take seriously that for the protection of legitimate U.S. interests the use of such force may at some future moment become necessary; and this in turn implies that appropriate forces be trained, equipped, and ready for such eventualities. This I take to be required by former Secretary Weinberger's language of "winning," as well as by the just war criterion of "last resort."

Other implications for the application of the Weinberger Doctrine are explored by other contributors to this volume. Morally speaking, however, we are left with Aristotle's realization that ethics and politics are two faces of the same reality, and that statecraft seeks to express both in a satisfactory manner--that is, to ensure both the good of the state and that of the citizen. Just war tradition, as a statement of morality in the use of force for the protection of values of the political community, lies at the interface between ethics and politics. The Weinberger Doctrine, as expressed in the "six conditions," takes U.S. policy on the use of military force to that interface.

CONCLUSION: MORALITY AND THE USE OF FORCE IN STATECRAFT

In the order of things, relatively few persons in any society are ever called on to assume the burdens of statecraft. Yet in a society like our own, no citizen can ever completely shirk those burdens, either. It is a part of the civic duty of every citizen to be informed, so far as possible, about the affairs of his government both at home and abroad, and to reflect this knowledge in his participation in civic affairs. Thus we all bear some of the responsibilities of statecraft just by virtue of being citizens of a democracy and not of a totalitarian state. Conscious reflection on the just uses and limits of force, following the line of the major Western moral tradition on war, is an appropriate part of accepting that responsibility. For those who are in positions of political leadership, as well as for their advisers, the urgency is greater--as are the responsibilities. Thus we ought to have more conscious reflection on this tradition at these levels, not just unconscious use of the traditional categories of thinking. Following through on the implications of just war tradition imposes on political leaders the responsibility of considering how best the values of their society can be protected and preserved, at the least cost and in the most morally acceptable ways.

The Weinberger Doctrine addressed this responsibility in the specific contexts of Middle Eastern terrorism and Central American communism; yet what was said there can also be extrapolated to the larger context of superpower rivalry and confrontation. Since the Weinberger Doctrine is principally a *jus ad bellum* statement, extrapolation also needs to be done in *jus in bello* areas. It is the role of Chapter 6 to identify and assess the operational military implications of the Weinberger Doctrine. In the present context, however, it is useful to take note of three broader implications of the just war *jus ad bellum* which also have correlates in current defense policy. These implications are for a national defense strategy that is truly defensive, not offensive in nature;

planning for the conduct of armed conflicts in a limited war and not a total war mode; and research and development aimed at producing weapons that would serve these ends.²³

Putting this less abstractly, strategic defense is morally preferable, on the terms of just war tradition, to deterrence of war by means of weapons that would, if war should come about, be virtually impossible to use within the constraints of noncombatant immunity and proportionality. Similarly, plans for war fighting that address concretely the need to maintain control and restraint in war are morally better than accepting the inevitability of all-out escalation in a nuclear war and making no plans to prevent such escalation. Finally, limitation in war implies the need to have at hand suitable means, and just war tradition presses away from weapons and strategies of mass destruction toward low yield nuclear weapons and conventional arms.

These considerations take us beyond the immediate scope of the Weinberger Doctrine; yet they are consistent with it and with other elements of contemporary defense policy. More importantly, they represent collectively a closer adherence to the contemporary implications of just war thinking than either previous defense policy or any of the alternative policies currently proposed.

NOTES

1. Stanley Hoffmann, *Duties Beyond Borders* (Syracuse, NY: Syracuse University Press, 1981), pp. 46, 56-62.

2. Roland Bainton, *Christian Attitudes Toward War and Peace* (Nashville, TN: Abingdon Press, 1960).

3. See William V. O'Brien, *The Conduct of Just and Limited War* (New York: Praeger Publishers, 1981), Chapter 4; James Turner Johnson, *Can Modern War Be Just?* (New Haven and London: Yale University Press, 1984), Chapter 2.

4. See Abbott A. Brayton and Stephana J. Landwehr, *The Politics of War and Peace* (Washington: University Press of America, 1981), pp. 145-147, 223-226; Frederick H. Russell, *The Just War in the Middle Ages* (Cambridge, London, New York, and Melbourne: Cambridge University Press, 1975), pp. 3-8.

5. Bainton, *Christian Attitudes*, Chapter 6; Paul Ramsey, *War and the Christian Conscience* (Durham, NC: Duke University Press, 1961), Chapter 2; National Conference on Catholic Bishops, *The Challenge of Peace* (Washington: United States Catholic Conference, 1983), Sections 81-82.

6. Hugo Grotius, *The Law of War and Peace* (Roslyn, NY: Walter J. Black, Inc., 1949), pp. 323-325.

7. See Philippe Contamine, *War in the Middle Ages* (Oxford: Basil Blackwell Publisher, 1984), pp. 357-359.

8. Gratian, *Decretum*, in *Corpus Juris Canonici Gregorii XIII* (Graz: Akademische druck-u. verlagsanstalt, 1955).

9. See further James Turner Johnson, *Just War Tradition and the Restraint of War* (Princeton: Princeton University Press, 1981), Chapter V.

10. See Leroy B. Walters, "Five Classic Just-War Theories," unpublished doctoral dissertation, Yale University, 1971; James Turner Johnson, *Ideology, Reason, and the Limitation of War* (Princeton: Princeton University Press, 1975).

11. On these changes see John Ulrich Nef, *War and Human Progress* (Cambridge, MA: Harvard University Press, 1950), pp. 24-32 and passim.

12. See further Johnson, *Just War Tradition*, Chapter VI.

13. J. F. C. Fuller called these 18th century limited wars "sovereigns' wars"; see Fuller, *The Conduct of War, 1789-1961* (New Brunswick, NJ: Rutgers University Press, 1961).

14. Emmerich de Vattel, *The Law of Nations or the Principles of Natural Law* (Washington: Carnegie Institution, 1916).

15. Vattel, *The Law of Nations*, Book III, Section 158.

16. See Myres McDougal and Florentino P. Feliciano, *Law and Minimum World Public Order* (New Haven and London: Yale University Press, 1961), p. 72.

17. See further Johnson, *Just War Tradition*, Chapter X.

18. See Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, Inc., 1977); Hoffmann, *Duties Beyond Borders*; O'Brien, *The Conduct of Just and Limited Wars*; James F. Childress, *Moral Responsibility in Conflicts* (Baton Rouge and London: Louisiana State University Press, 1982); National Conference of Catholic Bishops, *The Challenge of Peace*; Johnson, *Can Modern War Be Just?*

19. This is necessarily a brief and somewhat sketchy comparison. For more detail see James Turner Johnson, "Toward Reconstructing the *Jus ad Bellum*," *The Monist*, 57 (October 1973), pp. 461-468.

20. On this see Paul Ramsey, *The Just War: Force and Political Responsibility* (New York: Charles Scribner's Sons, 1968), Chapter 19.

21. I develop this further in *Just War Tradition*; see also Michael Mandelbaum, *The Nuclear Revolution* (Cambridge: Cambridge University Press, 1981), Chapter 2.

22. The Secretary of State's position summarized from George P. Shultz, "The Ethics of Power," *Department of State Bulletin* (February 1984), pp. 1-3. The position of the former Secretary of Defense is taken from Caspar W. Weinberger, *Report of Secretary of Defense Caspar W. Weinberger to the Congress* dated February 5, 1986 (Washington: U.S. Government Printing Office, 1986), pp. 78-79.

23. For further development of these three ideas and argument for them from a just war perspective, see Johnson, *Can Modern War Be Just?*, Chapter 3.

CHAPTER 6

THE MILITARY AND OPERATIONAL SIGNIFICANCE OF THE WEINBERGER DOCTRINE

Samuel J. Newland and Douglas V. Johnson II

For the military planner, the six major tests to be used in considering the commitment of U.S. forces to combat provide an interesting vehicle for a discussion of military power--or its limitations--for both the present and the immediate future. Developed at a time when some have questioned the intent and the necessity of the U.S. military buildup, and as a part of a major disagreement between the Secretary of State and the former Secretary of Defense regarding the deployment of military forces, these six tests seem to have been designed to: (1) provide definitive rules for the employment of military force; (2) allay fears surrounding the current military buildup; and (3) by the employment of tests or rules, avoid situations comparable to Vietnam where, through gradualism, our military became involved in an untenable situation.

The tests were developed by the former Secretary of Defense and his staff and were presented to Congress in the former Secretary's February 5, 1986 message. Though he recognized that they could not be applied in a mechanical fashion and had to be utilized with reason and judgment, former Secretary Weinberger proposed the following tests to be used for considering the use of military forces:

- The United States should not commit forces to combat unless our vital interests are at stake. Our interests, of course, include interests of our allies.

- If the United States decides that it is necessary to commit its troops to combat in a specific situation, we must commit them in sufficient numbers and with sufficient support to win. If we are unwilling to commit the forces or resources necessary to achieve our objectives, or if the objective is not important enough, we should not commit our forces.

- If we do decide to commit forces to combat, we must have clearly defined political and military objectives. Unless we know precisely what we intend to achieve by fighting, and how our forces can accomplish those clearly defined objectives, we cannot formulate or size forces properly, and we should not commit our forces at all.

- The relationship between our objectives and the forces we have committed--their size, composition, and disposition--must be continually reassessed and adjusted as necessary. In the course of a conflict, conditions and objectives inevitably change. When they do, so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: Is a vital U.S. interest at stake? Have we committed forces and resources sufficient for victory? Are our objectives clearly defined? If the answers are "yes," then we should continue to fight. If the answers are "no," then we should not be in combat. We must never again commit U.S. forces to a war we do not intend to win.

- Before the United States commits combat forces abroad, the U.S. Government should have some reasonable assurance of the support of the American people and their elected representatives in the Congress. Such assurance cannot be provided by a public opinion poll. The public elects a President as a leader, not a follower. He takes an oath to protect and defend the

Constitution. The people also expect a Congress sworn to the same principles and duties. To that end, the President and the leadership of the Congress must build the public consensus necessary to protect our vital interests. Sustainability of public support cannot be achieved unless the government is candid in making clear why our vital interests are threatened, and how, by the use of American military troops, we can achieve a clear, worthy goal. U.S. troops cannot be asked to fight a battle with the Congress at home, while attempting to win a war overseas. Nor will the American people sit by and watch U.S. troops committed as expendable pawns on some grand diplomatic chessboard.

- Finally, the commitment of U.S. forces to combat should be a last resort--only after diplomatic, political, economic, and other efforts have been made to protect our vital interests.'

Knowing that such tests would have a definite impact on the American armed forces, the six tests will be examined in light of both the past commitment of American forces to war and in their potential effect considering current American commitments. In addition, they will be carefully examined given both the traditional attitudes of the American nation toward war and the present post-Vietnam attitudes.

From the perspective of the military planner, two of the six tests concern political issues and therefore do not offer significant guidance in preparing for wartime missions. Traditionally, the U.S. military establishment does not determine the nation's political objectives or its national interest, although they may have indirect input into it. Rather, this important function is accomplished through the Executive Office and key congressional and governmental committees. Once established by the political leadership, it is the military's role to plan for any and all eventualities if war is not deterred. Hence the tests stated below have more political ramifications than military:

- The United States should not commit forces to combat unless our vital interests are at stake. Our interests, of course, include interests of our allies.

- If we do decide to commit forces to combat, we must have clearly defined political and military objectives. Unless we know precisely what we intend to achieve by fighting, and how our forces can accomplish those clearly defined objectives, we cannot formulate or size forces properly, and we should not commit our forces at all.²

Both tests, however, bring up key questions: What are the U.S. basic political and military objectives, and what are our vital national interests? In his February 5, 1986 annual report to Congress, former Secretary Weinberger supplied some guidance on our basic goals and objectives. In his opinion "... the basic goals of national security policy have remained essentially unchanged since the 1940s." They are:

- To preserve the independence, free institutions, and territorial integrity of the United States.

- To preserve U.S. and allied vital interests abroad; and

- To shape an international order in which our freedoms and democratic institutions can survive and prosper--an international order in which states coexist without the use of force and in which citizens are free to choose their own governments.³

Furthermore, according to Weinberger, there are additional elements which are significant in understanding American national strategy. In particular, since the late 1940s, three additional themes have been a pertinent part of our national strategy. They are:

- Political: to promote democratic institutions, not just by example, but by the reconstruction of our two principal World War II adversaries as political democracies, and by

encouragement of democratic institutions around the world.

- Economic: to create an international economic system for money, trade, and aid, embodied in Bretton Woods, the International Monetary Fund, the General Agreement on Tariffs and to promote growth in the world economy and to prevent occurrences like the Great Depression that brought Hitler to power; and

- Geopolitical: not just to prevent domination of other economic-industrial centers by a hostile power, but to create an alliance of industrial democracies joined with the United States in collective security compacts.⁴

Both traditionally and in the former Secretary's message to Congress, since 1946 the major threat to our national objectives and our national security has been the threat posed by the Soviet Union. Recognizing this threat for the last 40 years, the United States has attempted to contain the Soviet Union within its existing sphere of influence until "the internal contradictions of Soviet communism emerge"⁵ and, we assume, until the world rejects the communist or, better yet, the Soviet system.⁶ To accomplish this goal the U.S. military establishment has attempted to deter aggression by having such a strong retaliatory force that we deter both covert and overt acts simply through the strength of our ability to retaliate effectively. The focal point of much of our deterrence strategy has centered on Western Europe, resulting in the deployment of a major part of our forces to Germany to deter any Soviet incursion and, most importantly, to prevent the industrial and economic capacity of Western Europe from falling into the Soviet sphere.

The European strategy was born in the immediate postwar era (1947-49) in direct response to several factors. First, to obvious Soviet intention; second, to our newfound ability to deliver nuclear weapons; and third, to our desire to bring the troops home and substitute nuclear deterrence

in their place. This strategy succeeded admirably and Western Europe remained outside the Soviet camp. U.S. interests outside Europe, however, abound. For example, this nation also has strong ties with Japan and Korea and has even gone to war to prove that it values an independent South Korea. Japan, through its obvious impact on the American economy, has become increasingly important to this nation's interests. Add to this list our traditional economic, geographical, and cultural interests in Latin America, perhaps intensified through Mexico's and Venezuela's oil reserves and the heavy economic debt of that region to the United States. Then cap it with miscellaneous but real interests in Israel, Australia, the Philippines, and Micronesia. Like the British Empire at its height, one could truly say the sun never sets on American interests.

If all of the previously stated areas of interest are still keystones for U.S. policy abroad, the question remains, "How do the Weinberger six tests affect our development of strategy for the positioning of U.S. forces to support American policies?" At best, the answer to this question is difficult. It would appear that our national goals and objectives have consistently centered on shaping an international order where democratic institutions will prevail and where a strong economic system based on free enterprise will be allowed to grow. If all of these factors involve our national interest, the military planner/strategist/logistician cannot help but be overwhelmed by the magnitude of his task(s).

Taken together, the language of the former Secretary of Defense's speeches and policy statements following the release of the tests seems to place the United States in a role in which it has served without respite from 1945 to the present. Specifically, as interpreted through eight separate administrations, the United States has stretched itself through a multitude of commitments, to both serve as the "policeman of the world" and foster democratic concepts for free people everywhere. It is to champion both the cause of human rights and that of the free enterprise

system throughout the world. Such an open-ended commitment, while philosophically admirable, has caused a significant overextension of U.S. commitments in years past, which apparently former Secretary Weinberger proposed to continue in the future.

This becomes even clearer through the comments made by the former Secretary in his January 14, 1986 speech at a conference on low intensity warfare.⁷ According to Mr. Weinberger, the United States would no longer sit by and watch the Soviet Union and its client states wreak havoc worldwide with their so-called wars of national liberation. Instead, in the future, the United States will stand firm against any such adventurism and will make every available effort to roll back the communist tide of advance around the world. In his words: "If it is proper and just that we should help those who wish to remain free, then we can hardly turn our back on those who have lost their freedom and want it back."⁸ Clearly our role is declared as a preserver of rights, liberties, and freedoms *worldwide!*

A stronger, more bellicose role by the United States is consistent with a basic theme of the Reagan Administration and extends beyond merely championing the cause of freedom worldwide. The Reagan Administration clearly does not intend to be intimidated anywhere by anyone, including the Soviet Union, Libya, or that shadowy and amorphous creature called international terrorism. The desire of the President and his chief advisors to stand firm in the face of international incidents has been termed the "Reagan Doctrine."⁹ It is defined as:

At injuries to its citizens, or at violent acts against its national interests, or at threats to subvert the governments of allies, the United States will strike back with exquisite calibration on a schedule of its choosing, and in a way that presses its advantages in economic power and military technology - retaining popular support at home by avoiding as much as possible the expenditure of U.S. lives.¹⁰

This doctrine, if it can be truly called a doctrine, or this tendency to engage in a tit-for-tat match resulting from attacks real or perceived to U.S. interests, adds still another dimension to U.S. policies. Unless one regards protecting national pride or national image a part of our overall objectives,¹¹ it appears to be outside, or in addition to, additional approaches to defining national interest or national objectives.

Consequently, even a cursory review of recent foreign policy seems to indicate a substantial expansion of U.S. national goals and objectives. After ten years of recuperation from our Asian experience, we have again emerged as the champion of the free world. The question remains, however, "are our armed forces adequate for this task?" In a major war utilizing the traditional European scenario, the answer is clearly "No." Currently the United States has a total of 28 divisions to meet established military needs.¹² Bluntly, there is no way for this country to block the Soviet threat against Western Europe (including covering all NATO responsibilities); assist with the defense of Japan, Korea, and the Philippines; watch over our traditional interests in Latin America and Israel; champion the cause of freedom and the rights of mankind worldwide; and actively fight the specter of international terrorism, with the forces currently available. We may have the forces necessary to handle each situation separately, but if the crises come in multiples, or in the event of a major war, we could be in an untenable position.

Having reviewed this rather large menu of U.S. interests, the question again emerges as to which are so vital, that we must structure the military forces to protect? With our armed forces being inadequate to protect all of these interests simultaneously, what are the priorities? Are economic interests the most significant, requiring more attention to Japan, Western Europe, and Latin America? Or are our ideological commitments to protect freedoms and democracy the most important? Through reading both the former Secretary of Defense's and the President's recent comments, a lengthy list of interests can be

developed. Regrettably, there appears to be little prioritization of this long list.

At this point, we should note that several thoughts in tests one and three must not be overlooked. For example, according to former Secretary Weinberger, our interests include the interests of our allies. One would thus have to ask, when have we ever gone to war for the interests of our allies? After structuring a grand alliance in the period 1917-19, we simply "bowed out" of the international scene and entered a 20-year phase of near isolation. In World War II, we did not actually get involved in alliances until 1941 and did not go to war until the Japanese surprise attack on Pearl Harbor. The writers are pressed to cite even one example when this country has gone to war solely, or even principally, for the interests of our allies.¹³

Even more troublesome is the question of precisely what are the interests of our allies, or better yet, which allies? If one assumes that the reference here is to NATO, this alliance was forged in the Cold War era and clearly was designed to protect the "free world" from the threat posed by the expansion of communism, sponsored by the Soviet Union. But the last major Soviet-sponsored crisis which sought to threaten the free world in that arena was the 1961 Berlin Crisis.¹⁴ Even more intriguing is whether or not it is in the German interest to fight a war on their land, either conventional or limited nuclear? Viewing the European scene, it is evident that the NATO alliance has become weaker and the interests of its members more diverse, if not at times contrary to those of the United States.¹⁵

An even larger problem emerges if the term "allies" does not simply refer to NATO. After all, we not only have definite commitments to Japan and Korea in the Orient but also to Australia and New Zealand, though presently the latter is at best strained. If the first of the six tests is to be of assistance to politicians and military alike, additional clarity should be provided on the effect that allies have on the interests of the United States.

The third test, on the surface, seems reasonable. Clear-cut political and military objectives should have been developed prior to the commitment of military forces. Fallacies emerge, however, as this test is more carefully examined. Who are the clearly defined political and military objectives designed to assist? If they are developed for public consumption, openly articulating them could be counterproductive. For example, the 1943 allied call for the unconditional surrender of Germany and the "leaking" (accidental or purposeful) of the Morgenthau Plan¹⁶ undoubtedly stiffened the resolve of Germany to fight. They had no other choice. That we intended to defeat Germany and national socialism was obviously our objective, but announcing unconditional surrender as the only basis for peace was counterproductive, except for its propaganda value.

It is crucial that in wartime clearly defined political and military objectives have extremely limited distribution, since according to test three the country has already determined to commit military forces. If they are disseminated beyond the war planning rooms and outside the closed circles of a wartime government, they can do more damage than good. Public knowledge must be limited to broadly phrased slogans which provide the country's intent but do not betray her winning strategy.

If anything, the third test lacks one word, *achievable* objectives. History is littered with the wreckage of armies that attempted to achieve far more than they were able. As an example, in 1941 Hitler had as an objective the destruction of the Soviet state and the complete defeat of the Soviet Army. His objectives were quite clear both politically and militarily; the complete destruction of the only Marxist state and all of its military forces. Nonetheless, having clearly defined political and military objectives did not result in a victory. German objectives were not realistic. With approximately 205 divisions, Hitler sought to achieve these goals in addition to occupying Western Europe, fighting a war in the Mediterranean and maintaining military presence in the Balkans.¹⁷ While the writers recognize that

this country has never attempted such grandiose military and political schemes, our list of U.S. interests has grown increasingly longer, and this has not been matched by an appreciably larger Army. Somehow we must prioritize our interests in order to be able to plan for the future and to develop clear achievable political and military objectives in the event of war. The Weinberger tests provide little assistance in this arena.

While the Weinberger tests are admittedly not designed to assist in the prioritization process, they appear to be, in part, designed to draw a red line on America's priority list, below which we will not commit forces. In a previous administration, then Secretary of State Dean Acheson drew such a line, in public, in an attempt to make clear the relative worth of Korea on our list of priorities. That line notwithstanding, the act of raw aggression by North Korea against its struggling southern neighbor was viewed as sufficient provocation to hurl the fragmented and ineffectual forces available to the United States into battle.

The inability to develop clear-cut goals and objectives or to specifically determine the elements of our national interest has resulted in the stretching-to-the-limit of our military forces. This is diametrically opposed to the second of the six tests; the necessity "to commit forces or resources necessary to achieve our objectives."¹⁸ Frankly, we have not had traditional military forces available to cover our current military commitments. Only the umbrella of nuclear deterrence or the threat of massive retaliation has permitted this country to effectively assist in the defense of Europe. With the United States currently forward stationing four divisions in Europe, and opposing a Soviet Army of 30 divisions, the balance of power is at best highly questionable.¹⁹ This factor, together with our ever increasing number of national commitments or areas of national interest, makes it obvious that this particular test could only be useful for short-term operations like Grenada or raids against third rate powers like Libya. If it were ever applied to a confrontation with a major power such as the Soviet Union or China, we simply could never go to war.

According to this second test, we must commit the forces necessary to reach our objectives but, if we are unwilling to do so, *we should not go to war at all*. History would indicate a serious flaw in the logic of this test. If this test had been applied to either World War I or World War II, the United States would not have entered either conflict. Despite woefully inadequate military forces, the United States entered both wars. We declared war on the German Empire in 1917 with virtually no standing Army because we found it to be consistent with our national interest. In fact, because of either a direct attack by an unfriendly power or a direct threat to one of our key interests, this country has gone to war unprepared in the past. In all likelihood it will do the same in the future even when sufficient forces cannot be committed. To go to war only when totally prepared means that you will sacrifice elements of your national interest when you are not adequately prepared. This is simply not reasonable.

An example of a comparable situation could be seen in the recent British campaign in the Falklands. With virtually no warning, the British military was tasked with the job of mounting a task force to retake the Falklands. With inadequate Merchant Marine support, limited air support, and without the requisite levels of troop strength desired to mount an amphibious operation of that magnitude, the British armed forces nevertheless acted.²⁰ They launched their attack without the necessary forces *because time was of the essence* and the retention of the Falklands was seen to be in their national interest.

In many respects the tenor of the former Secretary's remarks regarding the necessity of committing the forces required to "do the job" seem to be a summation of the traditional American approach to war. Once this nation has determined to go to war, we commit all the resources we can muster to overwhelm the enemy with the might of American power. This traditional American approach was recently summarized by Professor Samuel F. Huntington in his article "Playing to Win." According to Huntington, American armies have traditionally won by using our mass,

both men and material. Therefore, we should capitalize on our major advantage and overwhelm our enemies quickly with our large numbers of men and machines and do so in an offensive mode. After all, as Huntington put it, "We won World War II because we were able to overwhelm the Germans and the Japanese with men, machines and material."²¹

The gist of former Secretary Weinberger's comments seem to be much the same. The major problem with this line of thinking is the question of whether or not we are still big enough, or better yet, how big do we need to be? Can we still function as we did in World War II, as the "Arsenal of Democracy?" Even a cursory review of our current potential should make us reassess this traditional approach. For example, in 1941 we went to war with Germany, Japan, and Italy. The acknowledged most serious threat was Germany, a nation which had expanded to 80 million people by 1939. Despite this being our primary enemy and though she was already fighting the Soviet Union and the British Empire, it took three and a half years to defeat Germany. According to American perceptions since the late 1940s, the chief threat to our security has been the Soviet Union. In the event of war we would face a nation of 280 million people with a standing Army of 201 divisions.²² Can we truly commit sufficient resources in enough time to defeat a nation like the Soviet Union in a full-scale conventional war?

While through most of this century America has been an industrial giant with a tremendous warmaking capacity, today it appears that this country, as well as Western Europe, is entering the information age, a postindustrial era. One only has to ask, where is the American steel industry today? Is it strong and vibrant? What is America's shipbuilding capacity today as compared to 1940?²³ Can we muster the industrial strength or manpower necessary for any type of major confrontation like we did in 1940? Do we in fact have sufficient forces for a war against the major threat? All of this raises further questions about "thinking big and playing to win."

Once committed to war the issue of sufficient forces changes. A nation at war may be required repeatedly to commit forces which are acknowledged to be inadequate for the task, if for no other reason than to buy time. For example, we knew as early as 1938 that in the event of war we could defend the Philippines for at most six months. Yet when the Japanese attack on the Pacific occurred, our forces held out in order to buy time to build our strength and prepare to take the offensive. Had we committed forces only when they were adequate we would have evacuated the Philippines at the war's onset.

There have been periods when this country has been introspective and has recognized the limitations to its power and the insufficiency of its forces to cover almost unlimited worldwide commitments. For example, in the period following the withdrawal of American forces from South Vietnam, President Nixon announced that we would no longer be the "Policeman of the World." Subsequently, U.S. military planners began developing the "war and a half" strategy which called for the United States to fight a full-scale war in Europe and a more limited action centering around Korea. This was a recognition of the limited military resources available. But the current administration has returned the American commitment to the pre-Vietnam mission, to serve as "Policeman of the World," and has defined national interests and objectives in such a broad way as to make it virtually impossible to have military forces sufficient to achieve our objectives. Without a more careful definition of national interest or much more emphasis on the military expenditures necessary for a much larger conventional force, this nation will not have the forces sufficient for those commitments as perceived by the current administration.

If it is accepted that such a looseness of definition has the United States serving as policeman of the free world, then it should be asked if we are ready to fight any of the types of wars that may be necessary? Hence, would we fight wars on the periphery of low intensity? Can we fight low intensity, conventional, limited nuclear, or full-scale

nuclear wars? Each war has its own force structure requirement, each its own requirement of scale. For example, it is generally assumed that to fight a counterinsurgency-type war, such as might develop in Honduras, a 10:1 ratio would be needed in order to win. Obviously this is only an average figure but what if only 9:1 or 8:1 can be achieved? Can we muster the strength?²⁴ For such a war, light infantry divisions and/or special operating forces are required, but the bulk of our forces are still heavy traditional units.

Recent examples are not all that encouraging. In Korea, as our objectives changed in the last part of 1951, we needed more troops to win, but we could not obtain them because of the perceived threat to Western Europe. When trying to "win" in Vietnam, General William Westmoreland, in the wake of the TET offensive, requested another 206,000 men to augment his existing 525,000. Once this had become public knowledge, an enormous debate shook the Johnson Administration. Subsequently, the press and the majority of the American public ceased to support the President and his method of waging war.²⁵ In sum, what is overlooked in this test is that often the nation and the people are unwilling to commit the resources necessary for a specific military situation. Yet the situation remains and the military establishment is required to attempt to accomplish the task without the necessary resources.

In the fourth test, the former Secretary of Defense does call for the constant reassessment of the size and composition of military forces and a continual reassessment of the relationship between our objectives and the forces we have committed. The idea is that we must not continue a war that we cannot win, or that is not in support of our vital national interests. But this test is, in many respects, contradictory to the second test which establishes a precondition to initial commitment--that we will not commit at all if we do not intend to win.

Furthermore, the continual reassessment of the forces committed, to include their numbers and disposition as well as whether our vital interests are at stake, is hardly a logical strategy. An earlier test required a political decision as to whether our vital interests are, in fact, at stake prior to the forces being committed. These should already have been matched up with the administration's "clearly defined political and military objectives." Prior to hostilities, it should also have been determined whether we had sufficient numbers of troops to accomplish the objective if such decisions were objectively possible. If the action is limited, like Grenada, there would be little time or need for reassessment. The conflict would be over before a study could begin. If, however, it is a limited war, like Vietnam or Korea, reassessment could go in only one direction--upward. Reassessment of forces and objectives in Korea resulted in the United States changing not only the number of troops, but its original objective of defeating North Korean aggression and restoring the independence of South Korea. The new objective became the defeat and occupation of North Korea. That decision was in itself not bad; rather it fit into the American pattern of what might be called "strategic opportunism."²⁶ Yet the resulting entry of China into the war caused a bloody stalemate in the Korean War. With her entry, China took the initiative and, in a conscious reassessment, we chose not to commit the resources to take it back.²⁷ Here began the disenchantment of many people with our policies in Korea; yet, in a larger context, as we saw it then, it was a correct decision. Later, a reassessment of national interest or political priorities in Vietnam caused the United States to opt for the so-called Vietnamization of the war. The subsequent withdrawal of U.S. forces and a reduction in U.S. aid to South Vietnam resulted in a disaster for that country and a resounding defeat for policies America had pursued in Southeast Asia for some 20 years. All of this would seem to indicate some major flaws in our system regarding the reassessment process. All too often our priorities are set according to the success or failure of any given situation. National interests should be stable and should not be reinterpreted situationally.

The problem with this portion of the former Secretary's tests thus centers around his suggestion that there should be continued reassessment of the forces committed and scrutiny of the importance or relevance of the area to our national interest, even after the troops have been committed to battle. Granted, in theory, such reassessment should be done objectively and deliberately, but all too often such significant decisions are made either in the euphoria of victory or the depression resulting from disappointment or defeat. Neither situation is an appropriate arena to make decisions affecting U.S. troops and neither an appropriate forum for reviewing national interest. The preceding examples of Korea and Vietnam are clear illustrations of the fallacy of this thinking.²⁸

The critical issue here is that the fourth test closes with the cautionary statement, "We must never again commit U.S. forces to a war we do not intend to win." We would counter by asking when did we ever commit forces to a war we did *not* intend to win? From the tenor of Weinberger's report to Congress, we can only assume that he was referring to Vietnam, but all available evidence seems to indicate that both our military and our political leaders clearly intended to win in Vietnam. The Korean War shows a unique example where "win" was defined two different ways and finally a stalemate was accepted. The major question raised by this test involves the definition of "winning." Winning could be simply achieving your political and military objectives as established at the inception of the campaign, short of outright battlefield victory. It can be clearly defeating your enemies on the field of battle. Or--according to the examples set in World War I and II--winning can be the total unconditional surrender of the opposing power.²⁹

The overall tenor of Weinberger's remarks seems to indicate that "winning" is a quick and decisive victory like Grenada, a type of war which Teddy Roosevelt once described as a "bully little war." Winning--to include the complete defeat of an opposing power, occupying their cities, and bringing the troops home to a ticker tape parade

in New York City--is perhaps the sweetest victory of all. This does not mean that simply achieving our military and political goals and then ceasing hostilities is not also a victory. In the case of Korea, we achieved the goals which were stated at the beginning of the war and maintained the South Korean government. Despite the successful realization of this goal, Korea became an unpopular war because it did not produce a clear-cut, decisive defeat of both China and North Korea.³⁰

This last point leads to the fifth of the six tests, the necessity of obtaining a reasonable assurance of the support of the American people. Certainly popular support or an understanding by the people of the necessity of the war is significant, but the record of the American people on this issue is none too comforting to the military planner. While Clausewitz said that war is "the continuation of political activity by other means,"³¹ the American tradition is diametrically opposed. America does not go to war in support of political goals or simply to support the national interest. The American people must be angered or violated in some way in order for them to go to war. This unique American attitude toward war is elegantly summarized in T. R. Fehrenbach's *This Kind of War*:

Any kind of war short of jihad was, is, and will be unpopular with the [American] people. Because such wars are fought with legions, and Americans, even when they are proud of them, do not like their legions. They do not like to serve in them, nor even to allow them to be what they must.

For legions have no ideological or spiritual home in the liberal society. The liberal society has no use or need for legions--as its prophets have long proclaimed.

Except that in this world there are tigers.³²

Simply look at the record for the last century. The *Maine* had to be sunk in 1898, Germany had to sink the *Lusitania* and, after declaring unrestricted submarine warfare, a number of other ships. In 1941 it took the Japanese attack on Pearl Harbor to bring the United States into the war,

even though President Roosevelt had been nudging the nation in that direction for several years. We went to war in Korea because of the North Korean invasion of South Korea, and even our direct intervention in South Vietnam required the Gulf of Tonkin incident. In the American tradition, a catalytic event of some sort is necessary to clearly place the American people and their elected representatives in a wartime mode.

In the American attitude towards war, there is both a virtue and a vice. Americans are virtuous in that they must have a just cause from the inception of a conflict, and the righteousness of this cause must continue to exhibit itself throughout the conflict (which is best augmented by the depravity of the opponent's cause). Simply stated, Americans fight for just causes, to preserve freedoms, to liberate the oppressed, or a war "to keep the world safe for democracy." While this is an admirable, virtuous approach, it may also be naive--and that is a vice in this context. In the complex arena of international affairs, such naivete poses problems for both the political and military leadership. Since a just cause is needed, the American people will not go to war simply to further or enforce the goals of the political leadership--and certainly not the goals of the military leadership.

Once in a war, it takes a continual threat or a concentrated effort by the government and the media to keep Americans in the wartime mood.³³ The American people do not fight to promote the national interest. They are more likely to fight "Krauts," "Nips," and "Chinks," with all of the negative connotations that these terms imply, than they are to fight Germans, Japanese, or Chinese. Americans are much less likely to conjure up genuine animosity to reasonable leaders of an opposing power than they are to a tyrant, dictator, or a supposed lunatic. To go to war, Americans must be provoked; and the people involved in the provocation should have real or imagined undesirable characteristics and their leaders should have dictatorial or even maniacal tendencies.

Where does this leave a military planner? In essence, in the same situation where U.S. planners have been since the United States became a global power. It means that in all likelihood U.S. military planners will not prepare for any preemptive or preventive operations, although they may have to execute comparable operations with little warning, as in Lebanon in 1958 or Grenada in 1983. Our major military operations will, at the onset, tend to be reactive to the actions of another power. Absent fabricated provocations such as the August 1939 "Polish" attack on a German radio station,³⁴ which the U.S. military ought never to do, we need to achieve the highest levels of military preparedness possible, given budget restraints, to deter aggressors or those who would threaten our vital national interests. It is also necessary to prepare for a number of strategies/scenarios for areas of the world deemed important to our national interest.

If this sounds somewhat familiar, it is no coincidence. The fifth test is in many ways an acknowledgment of a serious problem for both the politician and the military planner: "How do you lead the American people into a war?" The Weinberger tests add no additional insights into this problem; they merely acknowledge that, without popular interest, the United States does not, or should not, go to war. But they fail to address the consequences of utilizing the basic tenets of this test, i.e., that popular support is a fickle friend at best. If the Union Army had fought only when it had full public support, there would not have been any campaigns in 1863--the year of Gettysburg and Vicksburg--the year the tide of battle turned for the Union. Resistance to the draft and the rise of the "copperhead" movement in the Ohio River Valley made it clear that a significant element within the Union was at odds with the war aims. The most recent example of the perils of using popular opinion is Vietnam. The public, the politicians, and even the military frequently forget that Vietnam was not, at its inception, an unpopular war. It was only after the war continued with no victory in sight and with mounting casualties that the antiwar movement began to grow.

If the military is a bond servant of public opinion, it must have one eye on the campaign and the other on the press. A commander cannot afford to neglect his command duties to curry public favor. He must have clear-cut plans and objectives from the political leadership, ones that will not shift with the whims of public opinions. One only has to review the lessons of the Civil War to recognize what popular generalship did to George McClellan--and the Union cause. George McClellan was a popular general who staged elegant maneuvers and generally lost a minimum of lives, but failed to accomplish what the Union needed--winning battles. General U. S. Grant, however, caused a public outcry due to the heavy Union casualties suffered at Cold Harbor, but his grinding offensive broke the back of General Lee's Army of Northern Virginia. Had public opinion been the arbiter, Grant would have been relieved of command and the war extended.

The sixth test states that this country should only go to war as a last resort, only when all other diplomatic, political, and economic options have been exhausted. Obviously this is nothing new; it is what we have traditionally done. Perhaps the significance of this test is that it summarizes the spirit of the six tests. Its message is that of caution, that war and/or the use of military force must be a last resort.

From a purely military point of view, this test is perhaps the worst for the soldier. To go to war grudgingly as a last resort denies him an important element, the element of surprise, the advantage of initiative. The effect of surprise in war can be seen from Anzio through Inchon, the Pearl Harbor attack, or the 1940 attack on France through Holland and Belgium. This is not to say that the American nation should completely ignore its traditional reticence toward military activities, nor should it embrace totally the reckless use of its military in surprise attacks on unfriendly nations.³⁵ From the military point of view, however, there should be some middle ground. A nation must be willing to go to war to promote or preserve its national interest and should do so understanding that sometimes there is no other recourse but war. For Americans, however, it is much

easier to have popular little wars like the Spanish-American War or Grenada, rather than necessary wars like Korea or Vietnam.

Apparently what the former Secretary of Defense proposed was to formally institutionalize the American attitude toward the exercise of military power, which would permit us to go to war only when angered, when cornered, or when there is no other alternative, and therefore our response would be clearly obvious. What he failed to include among his tests, however, are situations like Libya, Grenada, Lebanon, or the Dominican Republic. These, too, are commitments of force, even if on a lesser scale. If judged against the tests, was military action the only recourse in Grenada and Libya? Had all political and economic options been "fully exercised" prior to the commitment of military forces in Libya? Clearly the Reagan Doctrine appears to have influenced these decisions.

CONCLUSION

In summation, Weinberger's six tests, designed to resolve the question of when to commit military forces, appear to create more problems than they solve and raise false hopes by offering easy solutions to complex problems. In many respects, the six tests are a restatement of traditional American attitudes toward war. Some of these may well prevent this nation from taking a mature, realistic view of our superpower responsibilities.

In the first place, the Weinberger tests institutionalize the need to have popular support (actually popular enthusiasm) for a war. The necessity to have our own American version of a *jihad* has caused difficulty from the American Civil War through Vietnam. It ignores the fact that some strategically necessary wars and causes may be unpopular. Do we then refuse to go to war if the "yellow press" cannot whip up enthusiasm? Do we publicly forego, in the immediate future, preemptive strikes because there is no time to test the public waters? Or do we capitulate or

withdraw when a war becomes unpopular? The writers think not.

Second, the Weinberger tests appear to define winning in the traditional American fashion. Hence we must have a clear-cut complete victory, preferably with the unconditional surrender of the enemy. Limited war or simply achieving the limited goals of a superpower is not satisfying in the American approach to war.

Third, the Weinberger tests give lip service to assessing both national interest and clearly defined political and military objectives prior to committing U.S. military forces. Both before and after the publication of the six tests, however, the current administration has produced a long list of objectives and interests so diffuse that not even the enormous Soviet military establishment could hope to cover all of the commitments it has undertaken.

Finally, going to war only as a last resort is not a new policy, developed through the Weinberger tests. It is traditionally American. We only go to war when backed into a corner or when alternatives are lacking. We have always renounced the first initiative, the attack.

From another standpoint, the six tests and the text that accompanied them give strong reference to the Vietnam War. The inference is that if these tests had been in place in the early sixties, perhaps something like Vietnam would not have occurred. We strongly disagree with this line of thought. The United States intended to win in Vietnam and had political and military objectives to follow. We assessed and reassessed, committed more and more troops, and won all major engagements but lost the war. We lost in Vietnam in part because of some of the factors that are provided as solutions to the problem of when to commit military forces in the Weinberger tests. One was to continually reassess our goals and troop commitment (causing a gradual escalation of our war effort), but,

despite the reassessment, to fail to commit sufficient resources or to understand what was really required to win. The other was the necessity to have popular support (really popular enthusiasm), something that could not be maintained in that type of a war.

Perhaps the worst part of the Weinberger tests is the concept of designing a series of quick tests, a checklist which will supposedly help the country make proper decisions in the future on the commitment of U.S. military forces. The world around us, both politically and militarily, is an extremely complex environment. The decision to commit military forces, and what type of forces to commit, cannot be informed by a series of simple and tidy tests. It requires the collective wisdom of both the political and military establishments to make such difficult decisions. Six tests are not a substitute for professional and responsible political and military judgments and leadership when deliberating a recourse to war.

NOTES

1. Caspar W. Weinberger, *Annual Report to the Congress, Fiscal Year 1987 Budget, FY 1988: Authorization Request and FY 1987-1991 Defense Programs* (February 5, 1986), p. 78.

2. *Ibid.*, pp. 77-78.

3. Weinberger, *Annual Report to Congress* (Executive Summary), pp. 6-7.

4. *Ibid.*, p. 7.

5. *Ibid.* Clearly this phrase indicates the hope that someday the world will see the contradictions of communism (which are many). Conversely, since these have been appearing for 70 years, the possibility of this factor helping the free world in the near future is somewhat remote. One would wonder how long containment will need to be used?

6. It seems logical that this distinction should be made. While China, Yugoslavia, Poland, and the Soviet Union all share a Marxist theoretical base, each interprets the communist system differently based on the leadership and the customs and traditions of the individual country.

7. "A Low Intensity Speech of Electrifying Significance," *Washington Times* (March 5, 1986), p. 45.

8. *Ibid.*, p. 45.

9. The term "the Reagan Doctrine" was first coined by Charles Krauthammer in an essay for *Time Magazine* in April 1985. It has since become a common term for describing President Reagan's approach to dealing with international problems.

10. William Safire, "The Reagan Doctrine," *The New York Times*, p. 10.

11. Protection of the national pride is something that countries have used as a basis of going to war. The insult to England, real or perceived by Spain in 1738, resulted in the "War of Jenkins Ear." But it is extremely difficult to plan for a policy of protecting national pride.

12. The reader should also remember that of these 28 divisions, 18 are active Army and the remaining 10 are in the National Guard. There are also a number of division equivalents and 12 Reserve Training Divisions in the Army's force structure. Comptroller of the Army, *The Army Budget, Fiscal Year 1986*, pp. 87-88.

13. A possible exception might be Vietnam, depending on your perception. In that case we did go to war for the benefit of our ally, South Vietnam. On the other hand, as early as the mid-1950s, it was in our stated interests to maintain a free and independent South Vietnam. Considering this factor, did we really go to war for the benefit of our ally? Or was it for our own interests?

14. The writers recognize that there was the Czechoslovakia crisis of 1968, but this was not a confrontation aimed at NATO or the Western world. From the Soviet perspective, this was the case of returning the wayward Czech nation to the correct Marxist path.

15. One would have to say that alliances like NATO probably bond strongly when there is an obvious threat. There has not really been a strong threat to the Western alliance since the Berlin crisis of 1961. In reality one could say that the average citizen does not really perceive a major threat to life and liberty from the Soviet Union. Twenty-five

years of peace have lulled the alliance members into a rather complacent mood.

16. The Morgenthau Plan was developed by U.S. Treasury Secretary Henry Morgenthau, Jr. and proposed a harsh postwar policy toward Germany. Key to this policy was the concept of making postwar Germany a small pastoral nation with no industrial or economic impact on Europe.

17. In his postwar book General Guderian places the figure at a total of 205 divisions to cover Germany's far-flung commitments. Heinz Guderian, *Panzer Leader* (New York: Ballentine Books, nd.), p. 46.

18. Weinberger, *Annual Report to Congress*, p. 78.

19. These figures require some clarification. The United States has four full divisions, but a total of six division equivalents, forward deployed in Europe. The Soviet figure includes *only* Soviet divisions forward deployed and does not include non-Soviet Warsaw Pact forces. See U.S. Department of Defense, *Soviet Military Power*, 1987 (Washington: Superintendent of Documents, 1987), p. 8.

20. To clarify the situation, the British Army could not muster the 3 to 1 numerical superiority (on short notice) thought necessary for an amphibious assault. Nor did they have immediately available the necessary lift capabilities for men and materials. Nonetheless, they acted since time was a significant factor.

21. Samuel P. Huntington, "Playing to Win," *The National Interest* (Spring 1986), pp. 8-16.

22. *Soviet Military Power*, 1987, p. 8.

23. For example, look at our fleet. We have fewer than 500 ships in our merchant fleet. Currently the Soviets have 2,475. See "U.S. Can't Bow to Merchant Marine Blitz," *Wall Street Journal* (May 13, 1986), p. 30.

24. This point is very important and too often ignored. America tried to fight "big" in Vietnam, failing to recognize that fighting counterinsurgency wars may not require B-52s and armor. It requires large numbers of troops that are trained to fight in counterinsurgency operations, not troops that are trained to fight a conventional war in Europe.

25. Dave Richard Palmer, *Summons of the Trumpet: A History of the Vietnam War From a Military Man's Viewpoint* (New York: Ballentine Books, 1978), pp. 260-262.

26. "Strategic opportunism" should be defined. It is simply that though a country may have established objectives and strategy in a war, the overall strategy may be altered due to the opportunity of the moment created by victories in the field.

27. J. F. Schnabel, *United States Army in the Korean War, Policy and Directions: The First Year* (Washington: U.S. Government Printing Office, 1972), pp. 253-255.

28. One would have to ask how the outcome of Korea or the American attitude toward Korea might be different if the United States had retained her original objectives in that war. Had the euphoria of victory not overwhelmed us, would we have still been in a bloody stalemate in 1952 or 1953?

29. Though in this century Americans have shown a distinct preference for unconditional surrender (World Wars I and II), one would have to question whether this is ever really in the best interests of a stable postwar era or even in the best interests of the United States. Nonetheless, this seems to be an American tendency: we're right; they're wrong; they must completely surrender.

30. One could almost ask the question whether if it had continued to drag on, as did Vietnam, Korea could have become a bitterly unpopular war like Vietnam. Obviously it is impossible to know, but what would the mood have been if Korea had lasted until 1955 or 1956?

31. Michael Howard and Peter Paret (eds. and trans.), Carl von Clausewitz, *On War* (Princeton: Princeton University Press, 1976), p. 87.

32. T. R. Fehrenbach, *This Kind of War: A Study in Unpreparedness* (New York: Pocket Books, Inc., 1964), p. 455.

33. There is no better example of the use of mass media than World War II. Pop songs ("You're a Sap, Mr. Jap") and movies, including Walt Disney's "The Fuhrer's Face," assisted in maintaining America's wartime mood. This was, of course, coupled with government control of the news through censorship.

34. For some reason even Hitler wanted provocations, real or staged, in order to initiate military action. Therefore, in 1939 a phony attack was staged on a German radio station by supposed Polish troops. The whole operation was actually staged by German clandestine forces.

35. Surprise attacks by military forces always seem to have been repugnant to the American people. A prime example is the terminology of the 1940s used to describe Pearl Harbor. It was a "sneak" attack by the Japanese; apparently bad because they attacked and gave no warning.

CHAPTER 7

APPLYING MILITARY FORCE: THE FUTURE SIGNIFICANCE OF THE WEINBERGER DOCTRINE

Alan Ned Sabrosky

American policy analysts and practitioners functioning in what David T. Twining has described as "this contemporary era of political and social disarray some call peace" certainly live in interesting times, in the double-edged sense of the ancient Chinese curse. The global interests of the United States clearly dictate that this country maintain a prudent capacity to respond effectively when threats to those interests emerge. Throughout its history, America has applied force with these goals in mind, as a host of adversaries learned to their own dismay, especially in the 20th century. From the "Roosevelt Corollary" to the Monroe Doctrine, through the World Wars, and onto the "Cold War" Formosa Straits (1955) and Tonkin Gulf (1964) Resolutions, the United States dictated the terms of its engagement and acted accordingly. Situational objectives varied according to circumstance, to be sure. But the controlling direction of U.S. intervention, be it limited or general, was compatible with William G. Eckhardt's observation that "The goals of using violence are preservation of the state and a return to a peaceful international order."²

Certitude, determination, and confidence alike obviously and regrettably foundered on the rocks of Indochina. Defeat came hard to the United States and to its armed forces. Compounding the American dilemma

was the fact that its interests remained extensive in global terms, despite that regional setback. There seemed to be all too much truth to the argument advanced by Samuel J. Newland and Douglas V. Johnson II, that "Like the British Empire at its height, one could truly say the sun never sets on American interests."³ Thus, as success became less certain, the need to succeed--or at least to be able to project an *image* of success--ironically became more important.

This apparent dilemma focused attention in the mid- to late-1980s on what Charles E. Marthinsen has characterized as "The fundamental issue . . . that has been debated by Americans throughout our history: in what circumstances will we employ our military force in order to protect or advance our 'vital interests'?"⁴ Indeed, all of the contributions to this volume remind one of the extent to which current concerns need to be placed into their proper historical context. Americans traditionally have debated their country's "recourse to war," from the Revolution onwards. Only the extensity and the ambiguity of the circumstances in which that option might be exercised have changed since World War II in general, and since the Vietnam War in particular--an inevitable consequence, perhaps, of the burdens that accompany the elevation to the status of a superpower.

In this context, the so-called Weinberger Doctrine--a term never officially sanctioned--should best be seen as an effort to clarify this ambiguity, to add a measure of precision and certainty to what Eckhardt called the need "to seek consensus on . . . *jus ad bellum* [the proper recourse to war]."⁵ More to the point, it is important to understand that the requirements for intervention, and the constraints upon that action, go beyond any single administration. In many respects, the Weinberger Doctrine attempted to codify those precedents and practices with which any U.S. administration will have to deal. Thus, the Weinberger criteria can best be seen as the most recent attempt to provide a plausible architecture within which the

use of military force can be considered by the United States, independent of the intrinsic merits of that doctrine.

STRENGTHS OF THE CRITERIA

No theory, of course, is conceptually or practically neutral. Each has its strengths and its weaknesses. The same pertains to the Weinberger Doctrine's approach to use of military force, regardless of its applicability to administrations past, present, and future.

Here, as elsewhere, of course, context is everything. And the context of the Weinberger criteria speaks volumes. The proximate origins were the enduring cancer of international terrorism, compounded by the 1983 disaster in Beirut and the occupation of Grenada later that month. But the roots of the doctrine went deeper. Since Vietnam, the United States had no reliable compass to determine when and where it should *and could* intervene successfully; our interventionist "ship of state," so to speak, had been adrift. Weinberger asserted that "the Vietnam War did not teach the United States to avoid all Third World involvement."⁶ But it came very close to that, and it is a tribute to former Secretary Weinberger that he attempted to put the country in a better position on this issue than it had been in the aftermath of 1975.

Independent of the technical precision of the doctrine, it had a number of positive attributes. First among these is the fact that it provided a useful conceptual framework within which the use of force by the United States could be considered. In some respects, the Weinberger criteria attempted to impose a measure of rationality on what may be an inherently irrational process--the determination of the precondition of successful U.S. military intervention abroad. Irrational or not, however, added conceptual rigor--even in the form of a set of principles--can only be beneficial, at least for purposes of first approximation.

More significant in many respects was former Secretary Weinberger's attempt to add clarity to what in the post-Vietnam era has been an exceptionally ambiguous situation. For whom, under what circumstances, *should* the United States intervene? In this context, the Weinberger analysis was both a critique of the past and a prologue for the future. It was a critique of pre-Vietnam theories of limited war that neglected "the domestic political realities of American democracy."⁷ But it was also a warning to future adversaries who might have been encouraged unduly by the U.S. failure in Vietnam. As Samuel Newland and Douglas Johnson put it, ". . . the Weinberger tests . . . appear to be, in part, designed to draw a red line on America's priority list . . . below which we will not commit forces."⁸ The obvious corollary, of course, is that it also implicitly defined those commitments on whose behalf we *could* commit forces--something adversaries and allies alike need to take into consideration.

Clarifying the circumstances in which the United States would, and would *not*, commit its forces to battle certainly did and does not imply their automatic or precipitous employment. Quite the contrary, given the spoken and unspoken legacy of the Vietnam War. In many respects, the final injunction of the Weinberger approach to the use of military force as a "last resort" in support of the first test's requirement that vital interests be at stake captured the cautionary spirit of all of its tests.⁹ This cautionary spirit is reinforced by James Turner Johnson's astute reminder that ". . . we may read in the Weinberger Doctrine our awareness that greater benefits may sometimes be had by maintaining a force in being than by actually involving it in a shooting war."¹⁰ This is a far different note than that struck a quarter-century ago by John F. Kennedy's proclamation of the New Frontier with its ensuing slide into Indochina. It constitutes, on balance, a call for prudence rather than excess in military interventions.

Reaffirming the essentially prudent character of the Weinberger criteria was its moral approach to what has

been called "the hard questions of whether and how to use force in the service of statecraft."¹¹ A careful reading of both the specific tenets of the approach and their overall rationale makes it abundantly clear that former Secretary Weinberger's criteria were a "contemporary example of just war thinking" that is firmly rooted "within the broad Western tradition on the moral justification of the use of force"--a "classic form of the just cause idea."¹² The latter acknowledges the moral legitimacy (if not the desirability) of a recourse to war in certain circumstances, rejecting thereby both the unqualified abstentionism of the pacifist and the unbridled adventuresomeness of the crusader. As James Turner Johnson has observed, "Just war tradition . . . lies at the interface between ethics and politics. The Weinberger Doctrine . . . takes U.S. policy on the use of force to that interface."¹³

Finally, while the Weinberger criteria may have been at the aforementioned moral interface of ethics and politics, they also acknowledged the political realities with which any U.S. administration would have to deal when contemplating military intervention abroad. Marthinsen properly directs attention to the fact that "The tragic denouement of our Vietnam experience suggests that the 'sociopolitical struggle'--domestically and internationally--is indeed pivotal."¹⁴ Indeed, as Newland and Johnson have noted, the first and third tests, dealing respectively with the specification of vital interests and the identification of specific objectives as preconditions for intervention, were themselves "inherently political."¹⁵ The fifth test, enjoining any administration considering the use of force to have "reasonable assurance" of public and Congressional support before the fact, was equally political. Here the presumption was, in Twining's words, that "informed consent will provide the guidance and the will for appropriate action."¹⁶ In fact, public support is doubtless the critical political variable, as that will influence the Congressional response--at least at election time. Failure to take proper account of the need for effective political consensus is likely to be counterproductive, and may well "court disaster"¹⁷ in an intervention. No less self-defeating

is the adoption of a flawed approach in the *conduct* of the intervention, like that "gradualism" in Vietnam "which caused the American public to underestimate domestic political costs and assume an exaggerated sense of control."¹⁸ To its credit, the Weinberger approach aspired to forego these and similar errors.

WEAKNESSES OF THE CRITERIA

Even a casual perusal of former Secretary Weinberger's criteria will permit the reader to discern its conceptual merits. The principal questions about the approach appear with respect to its relevance in contemporary domestic and international politics, and particularly to the degree to which its tenets are actionable by present and future administrations. At the most general level, for example, it is not immediately obvious that U.S. air strikes against Libya, the continued U.S. support for the *contras* in Nicaragua--half-hearted in the latter instance due to the vagaries of Washington politics and the American presence in the Persian Gulf--are even remotely consistent with the Weinberger criteria's precepts. Practice, it seems, can depart from theory, even during the tenure of some of the theory's proponents.

More searching appraisals of the Weinberger approach, moreover, raise questions regarding its applicability across the entire spectrum of conflict, now and in the years to come. In fact, a literal reading of the six tests of that theory, as Twining concluded, "would appear to preclude limited war, calling as they do for victory and castigating incrementalism as an escalatory option."¹⁹ In practice, however, it is only in such ambiguous situations as limited war that the principles enshrined in the Weinberger criteria need to be espoused--a point made explicitly by Marthinsen.²⁰ Democracies in general, as Twining suggested, are especially vulnerable to the type of threat inherent in that category of warfare.²¹ Even then, the criteria's precepts appear to apply most explicitly to those *brief* limited wars such as the 1983 Grenada

intervention in which costs were low and victory was achieved so swiftly that the fighting was over before any significant political debate could take shape.²²

Unfortunately for the proponents of applying military force as an instrument of foreign policy, the expeditious clarity associated with what Theodore Roosevelt characterized as "a bully little war" is all too seldom found in contemporary limited wars in the Third World. The test asserting the necessity of winning, for instance, lacked informational content; countries do not normally go to war when defeat is certain, even if "winning" can be defined in highly variable terms. Even more dubious was Mr. Weinberger's initial emphasis on using force only when one's own vital interests, or at least those of one's allies, are at stake. *Truly* vital U.S. interests are virtually never at stake in the Third World, however much they may be inflated by domestic political rhetoric, and the Weinberger criteria provided no guidance on prioritizing whatever U.S. interests are at risk. As for *allied* interests that may not simultaneously engage *American* interests, their claim on U.S. intervention in the post-Vietnam era is as tenuous as the definition of those allies. Good answers are not readily forthcoming here to the pointed query put forth by Newland and Johnson, who ask ". . . what are the interests of our allies, or better yet, which allies?"²³

Compounding the ambiguities in the strategic guidance provided by the Weinberger approach was the degree to which, as Eckhardt remarked, "The current debate on the use of force simply ignores the 'legal' standards that have come to be associated with the conduct of foreign policy in this century."²⁴ Eckhardt's conclusion contrasts sharply with James Turner Johnson's earlier acknowledgment of the congruence between former Secretary Weinberger's theory and classical "just war" tradition, as well as his observation that law has been "[one] of the major carriers of just war tradition in the modern era" ²⁵ The notion that something can be moral but not legal is an ironic reversal of the conventional wisdom that what is legal is not always moral. Yet the Weinberger criteria appeared

simultaneously to conform to the "just war" precepts (as Johnson argues) and to be sometimes inconsistent with international law and the Charter of the United Nations (as Eckhardt suggests). The irony here is compounded by the fact that, as Eckhardt himself asserts, "When the United States resorts to war, we do not abandon our dedication to law."²⁶ Yet both "[the] Grenada action and our actions in Nicaragua evince a clear difference in our own 'legal' thinking about the use of force since the [United Nations] Charter was signed."²⁷ From a legal perspective, in short, the applicability of the Weinberger criteria raised questions about its legitimacy within the precepts of international law.

Operational liabilities complicated further the application of the Weinberger criteria, even though they appeared to be oriented more toward policy and diplomacy than to matters military. As Newland and Johnson indicate, "To go to war only when totally prepared means that you will write off elements of your national interest when you are not adequately prepared," or risk losing in the field by fighting *before* one is adequately prepared.²⁸ The restricted applicability of the Weinberger approach to limited wars necessarily impacted on the resourcing of the forces that would be committed to such conflicts. It has been observed that "restricted political objectives [in limited wars dictate] . . . a less than all-out military effort,"²⁹ while "often the nation and the people are unwilling to commit the resources" required for such an effort in the first place.³⁰ Such limitations, self-imposed or not, seem incompatible with the theory's espousal of operational victory. Similarly, the fourth and second tests of the Weinberger criteria seem to be incompatible. After all, "the idea that we must not continue a war we cannot win"--the *fourth* test--may, under certain conditions, be inconsistent with the *second* test, which "establishes a precondition to initial commitment--that we will not commit at all if we do not intend to win."³¹

Last, but certainly not least, there are serious problems with the requirement for an *a priori* political consensus before undertaking to use military force abroad. This is not

to discount the importance of such a consensus, but rather to remark upon the uncertainly attending its formation. Marthinsen is very much on the mark when he concludes that those on all sides are "right about the pivotal importance of public support when the leadership is considering recourse to force . . . less certain is whether and how these same tests can be applied to . . . modern, low-intensity conflict situations" ³² It is all too obvious, as Secretary of State George Shultz once said, that "public support cannot be guaranteed in advance" ³³ Requiring any administration's planners to anticipate levels of public support before an intervention occurs, in short, is simply an exercise in futility. More to the point, it is equally clear that whatever popular support *does* obtain before an intervention takes place is "a fickle friend at best," hostage to U.S. casualty levels and the empirical reality that "America does not go to war in support of political goals or simply to support the national interest" ³⁴--independent of the centrality of the latter to Weinberger's theory itself. The unpredictability of public opinion is especially noteworthy in limited wars; "[the] public, the politicians, and even the military frequently forget that Vietnam was not, at the inception, an unpopular war," ³⁵ while disaster *after* the fact of the debate over the proper role of U.S. forces in Beirut in 1983 produced "a public clamor for the withdrawal of all American forces from Lebanon." ³⁶

APPLYING FORCE: RETROSPECT AND PROSPECT

It may well be true, as Secretary of State George Shultz commented, that "World War II taught that there were no final victories, while Vietnam taught that power and diplomacy are complementary." ³⁷ To the extent that these "lessons" can be applied to the Weinberger approach in a generic sense, they can be valuable. Regrettably, as Newland and Johnson argue persuasively, "[all] too often our priorities are set according to the success or failure of any given situation . . . [and] decisions are made either in the euphoria of victory or the depression resulting from

disappointment or defeat."³⁸ We need to appreciate far better the political and operational consequences of attempting to conduct what T. H. Fehrenbach called *This Kind of War*--a study of the U.S. involvement in the Korean War that was an incidental and unanticipated prologue to the Vietnam War, where the United States needed "legions" as much as before--and was as equally bereft of them.³⁹

The contributions to this volume provide a basis for understanding the extent to which the Weinberger criteria appreciate these consequences, and what that may signify for future administrations. Reflecting upon the arguments presented in this volume, it is apparent that the Weinberger approach did much better in some respects than it did in others. At the outset, it was a useful concept, adding clarity at a theoretical level in an area, and at a time, where the post-Vietnam era had seen little more than sterile confusion. From a moral perspective, the Weinberger criteria were equally well placed, residing very comfortably within the bosom of the classical Western "just war tradition." But the doctrine had its flaws as well. It could be argued that it was at times inconsistent with international law and the obligations that code imposes upon a law-abiding country such as the United States. It also appeared to ignore certain political realities in its quest for an unattainable *a priori* political mandate. From a military and an operational perspective, the Weinberger criteria may be more difficult to apply in practical terms than the theoretical ones. And in an anticipatory sense, it may well be that ". . . Weinberger's six tests . . . appear to create more problems than they solve and raise false hopes by offering easy solutions to complex problems."⁴⁰

Many factors in the contemporary international arena substantiate this conclusion. Preemptive action is morally defensible and strategically necessary; it is also politically impracticable, absent exceptional provocations.⁴¹ Nothing in the Weinberger approach truly came to terms with this dilemma, as it required at a minimum a degree of public support *before* the fact that history suggests will not

appear.⁴² The moral underpinnings of the Weinberger criteria were well and good. But they ignored the fact that standards of morality differ in this world, and that we do not yet know well "how to defend the nation's values without engaging in acts that themselves betray those values."⁴³ Resorting to war *is* the final arbiter of policy, but the "national interest"--however that might be defined--is no guide. Americans do require a "catalytic event," preferably perpetrated by a people or a leader with morally undesirable characteristics, "to clearly place the American people and their elected representatives in a wartime mode."⁴⁴

Finally, it needs to be understood that the open debate on the use of force abroad by the United States was, is, and will be inherently counterproductive in a strategic sense, however much it may conform to the American domestic political tradition. Such a debate allows adversaries to prepare themselves for our onslaught, creates political controversy within the United States, and may give rise to Congressional opposition (especially in an election year) that will negate whatever successes American armed forces in the field have been able to achieve. Similarly, the existence of a political consensus *before* an intervention is far less important than *sustaining* that consensus once U.S. forces are engaged. In Vietnam, as Marthinsen wrote, "The American public gradually withdrew its confidence from political leaders who failed to maintain popular support for their policies."⁴⁵ Yet British Prime Minister Margaret Thatcher used military success in the South Atlantic War of 1982 to build support for an intervention that had been lacking before the fact. "Nothing succeeds like success," the old adage goes, and it applies to military interventions with particular vigor.

CONCLUSION

What are we to make of former Secretary Weinberger's six criteria for the application of military force, and their relevance to the future? However one may assess its

relative merits, it cannot be denied that the Weinberger approach was one of those historical "benchmarks" in American public policy with which one may agree or disagree, but which nonetheless set the stage for future debate and for future decisions. In my opinion, it was an exceptionally useful concept--nothing better exists anywhere today--that did not, because it *could* not, come to terms with the principal constraints on the American recourse to war: a reactive governmental policy dictated by our constitutional order, and an unpredictable public opinion. It is doubtless true, as James Turner Johnson opined, that "[a] nation can be measured by how it thinks morally about war."⁴⁶ Yet it can be measured in strategic terms more precisely by how it *responds* to the challenge of war, and here America fails its test. Hysteria over returned prisoners released by our opponent or victory over a minor adversary in Grenada do not compensate for failure against more formidable opponents in Vietnam and elsewhere--*and this we and others know.*

The Weinberger criteria alone did not, and will not, compensate for this deficiency. Indeed, they demand of the American people what the American people have demonstrated for more than 40 years that they are unwilling to give--political support in conditions of adversity, fortitude under pressure, and the courage to endure and to prevail. The Vietnam War may well have "represented the antithesis of the Weinberger Doctrine," but there is precious little evidence to suggest that the mere proclamation of this doctrine would have altered events in Vietnam significantly.⁴⁷ Simply put, Americans prefer "to have popular little wars like the Spanish-American War or Grenada, rather than necessary wars like Korea or Vietnam."⁴⁸ Yet it is these *necessary* wars we must be prepared to wage in the coming years, like it or not. Future administrations will doubtless have their own terms of reference for such wars. But it would be proper and prudent for them to recognize that the precepts embodied in the Weinberger Doctrine represented a codification of historical precedent and political practice that will outlive

the Reagan Administration, and with which they themselves must ultimately come to terms.

NOTES

1. David T. Twining, "The Weinberger Doctrine," Ch. 2 of this volume.

2. William G. Eckhardt, "The Legal Significance of the Weinberger Doctrine," Ch. 4 of this volume.

3. Samuel J. Newland and Douglas V. Johnson II, "The Military and Operational Significance of the Weinberger Doctrine," Ch. 6 of this volume.

4. Charles E. Marthinsen, "The Historical Significance of the Weinberger Doctrine," Ch. 3 of this volume; and Department of Defense, *Annual Report to the Congress, Fiscal Year 1988* (Washington, DC: U.S. Government Printing Office, January 12, 1987), pp. 56-62.

5. Eckhardt, "Legal Significance."

6. Twining, "Weinberger Doctrine."

7. Department of Defense, *Annual Report to the Congress, Fiscal Year 1987* (Washington, DC: U.S. Government Printing Office, 1986), p. 77.

8. Newland and Johnson, "Military and Operational Significance."

9. *Ibid.*

10. James Turner Johnson, "The Moral Significance of the Weinberger Doctrine," Ch. 5 of this volume.

11. *Ibid.*

12. *Ibid.*

13. *Ibid.*

14. Marthinsen, "Historical Significance."

15. Newland and Johnson, "Military and Operational Significance."
16. Twining, "Weinberger Doctrine." See also Marthinsen, "Historical Significance."
17. Johnson, "Moral Significance."
18. Twining, "Weinberger Doctrine."
19. *Ibid.*
20. Marthinsen, "Historical Significance."
21. Twining, "Weinberger Doctrine."
22. Newland and Johnson, "Military and Operational Significance."
23. *Ibid.*
24. Eckhardt, "Legal Significance."
25. Johnson, "Moral Significance."
26. Eckhardt, "Legal Significance."
27. *Ibid.*
28. Newland and Johnson, "Military and Operational Significance."
29. Twining, "Weinberger Doctrine."
30. Newland and Johnson, "Military and Operational Significance."
31. *Ibid.*
32. Marthinsen, "Historical Significance."
33. Quoted in Twining, "Weinberger Doctrine."
34. Newland and Johnson, "Military and Operational Significance." See also Marthinsen, "Historical Significance."
35. Newland and Johnson, "Military and Operational Significance."
36. Marthinsen, "Historical Significance."
37. Twining, "Weinberger Doctrine."

38. Newland and Johnson, "Military and Operational Significance."
39. See T. H. Fehrenbach, *This Kind of War: A Study in Unpreparedness* (New York: Macmillan, 1963).
40. Newland and Johnson, "Military and Operational Significance."
41. Twining, "Weinberger Doctrine"; Johnson, "Moral Significance."
42. William O. Staudenmaier and Alan Ned Sabrosky, "Toward a Strategy of Counterrevolutionary War," *Military Review* (February 1985).
43. Johnson, "Moral Significance."
44. Newland and Johnson, "Military and Operational Significance."
45. Marthinsen, "Historical Significance."
46. Johnson, "Moral Significance."
47. For differing views, see Twining, "Weinberger Doctrine"; and Newland and Johnson, "Military and Operational Significance."
48. Newland and Johnson, "Military and Operational Significance." See also Marthinsen, "Historical Significance."

ABOUT THE CONTRIBUTORS

Colonel William G. Eckhardt, USA, is Director of International Law Studies, Department of National Security and Strategy, and holder of the General Dwight D. Eisenhower Chair of National Security at the U.S. Army War College.

Lieutenant Colonel Douglas V. Johnson II, USA, is a Strategic Futures Analyst, Strategic Studies Institute, U.S. Army War College.

Dr. James Turner Johnson is Chairman of the Department of Religion, Faculty of Arts and Sciences, and Associate of the Graduate Department of Political Science, Rutgers University.

Ambassador Charles Marthinsen (Ret) was Deputy Commandant for International Affairs, U.S. Army War College, and a career Foreign Service Officer.

Major Samuel J. Newland, USANG, is a Strategic Futures Analyst, Strategic Studies Institute, U.S. Army War College.

Dr. Alan Ned Sabrosky is Director of Studies, Strategic Studies Institute, and holder of the General of the Army Douglas MacArthur Chair of Research, U.S. Army War College.

Colonel Robert L. Sloane, USA (Ret), is Vice President of Personnel, Bank of New York, and a former member of the faculty of the U.S. Army War College.

Colonel David T. Twining, USA, is Director of Soviet and East European Studies, Department of National Security and Strategy, and holder of the General George C. Marshall Chair of Military Studies, U.S. Army War College.

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